

Meeting with Md. Sec. Health Dr. Martin P. Wasserman, JD  
5th Floor O'Connor Building 201 Preston Street, Baltimore  
Del. Joan Pitkin, Prince Georges Co.

29 Nov 95

Dr. Jane, Mary Couey, Ty Shitama, Dan O'Brien, Counsel to Sec. Health,  
Dr. George Benjamin, Dep Sec Health for Public Health (former Army, WRAMC, DC Chief  
Roger, Mary Betters, Dr. George & Alison Medical Officer & friend/neighbor of MC)

3:35PM Dr. W called Joan in for a pre-meeting

3:40 Joan returned to say W, wants to set the format for the meeting so as not  
to have a "circus"; the ground rules will be we can ask NO Questions  
DIRECTLY to Dr. Smialek when he is called in after we present our case  
to W.

3:50 O'Brien & Benjamin appear (Mary Couey recognizes latter.)

3:55 W - Dr. S was his colleague and W. was his advocate.

Joan? said W. was Medical Officer for Montgomery County in the 1980s under  
Gilchrist.

W - Stated he'd read our material. Dr. S. will tell us how his office saw the  
case and how they drew their conclusions from the facts both at the  
time immediately after (Keith was found) and after the exhumation. We  
are not here to argue. ALL QUESTIONS WILL BE ADDRESSED TO W. and he  
will ask them of S.

M.B. - CLAMS history from 1959 ... she heard of the Keith Warren case through  
NAACP, helped M.C. take it to the several government officials in vein,  
then, after the 1992 media expose, brought it to CLAMS who worked ...

W - When I arrived on this job I made pledge a (pointed to plaque on wall) to  
multicultural sensitivity, competency...

Jane - We reviewed the (police and coroner) documents indicating a hasty  
decision was made as to suicide by hanging,.. we went back to the  
County executive and other officials who recommended we go to the State  
Medical Examiner or have the body exhumed. Mary gave permission and we  
secured the funds. Dr Mihalakis did the autopsy and engaged Dr. Mason to do  
the toxicological. Dr. Mihalakis stated that the toxicologic findings do not  
support a hanging diagnosis. Five volatile hydrocarbons were found in Keith's  
tissues which would not be expected to be found there; 1,1,1-trichloroethane ,  
xylene, toluene , ethylbenzene, and 1,1-dichloroethane; two of these, TCE and  
xylene, were at lethal levels. Dr. Mihalakis stated that under such  
circumstances, in a good medical-legal investigation system, a case such as  
Keith Warren's must be considered and investigated as a homicide until proven  
otherwise." We sent this report to Dr. Smialek, out Attorney General and  
others and held a press conference Oct. 24, 1994. Dr. Smialek responded to  
this report through Andrew Sonner which was given to Mary Couey by our  
Police Chief Carol Mehrling. We were told all communication with Dr. Smialek  
would have to be presented to her and then forwarded. Dr. Smialek contended  
in his response that the substances came from the embalming process. Certain  
embalming fluids produced included 1,1,1-trichloroethane. Thus the absence of  
any physical injury support notion that Keith hung himself.

W - And S. (& you) disagreed as to whether they occurred post or antemortum.

Geo - And the distribution of concentrations were unusual..(he talks about his .

Army experience in Pac) The distribution had to result from inhalation.

J -Following S first report he stated that the TCE came during embalming process from San Veino, a solvent; and he made no mention of other hydrocarbons. Mary Couey got the embalming report from Collins Funeral home. There was no mention of SanVeino having been used We got the M.S.D.S. on the three embalming and cavity fluids listed on the report and none of them contained any of these hydrocarbons. San Veino is normally used as an external cleaner and sometimes injected to control tissue gas.

W - What causes tissue gas?

J - Maggots/ decomposition; But conversations with Chemical Companies stated SanVeino was not an embalming or cavity fluid. Then we went back to Dr. Mason and asked him to analyze the data . He reported that the distribution of TCE was consistent with inhalation-related fatality cases. Dr. Mihalakis confirmed Dr. Mason's analysis and added that SanVeino when injected is emulsified with soap prior to injection and no soap constituents were found in Keith; further, no camphor or phenol, known constituents of SanVeino were found either.

J - We got the MSDS (Mfgr's Data Sheets) list of constituents for SanVeino.

W - for the 1986 product?

J - The MSDS requirement (by the U.S. OSHA) started in 1988, but their formula for SanVeino had not changed.

W - Let me ask a general question. Why this 10 year pursuit?

M.C. - recalled the police handling of the 31 July 1986 scene

eyeballed the body's lividity; no coroner on sight; body taken to white funeral home;8 hours before I was notified; couldn't

view the body in funeral home...(describes the times ) until brother

returned fourth time, 24 hrs later.

Husband Army Dr. Warren in Germany (knew Dr. Benjamin.); police told her that's what happens to black kids in a white neighborhood.

W -(He asks Mary to repeat what *the police had said* )

M.B. - The family called for an autopsy and were treated very rudely; notice the errors in dates on the death report....

W - That happens.

M.C. - On what would have been Keith's 25th birthday a brown envelope was put inside her (screen) door; Was the envelope addressed to herself or her daughter Sheri. I opened envelope and found pictures and note...that others would be next . (shows photos). [Dr. B asks to see them also.; and, after the meeting, Atty O'Brien also asked where they came from.]

W - I was trained in Medicine and Law; tragic case; if (we could bring) Mary to find peace; He has teenagers, one of whom had an accident recently and was in an emergency room not like what Mary went through, but he (empathizes); Governor Glendenning also has a daughter... S. made a medical

determination based on the evidence available and it first appeared to be a hanging; (there can be a legitimate) dispute as to the ante vs post mortem (occurrence of chemicals); the manner of death is a legal term; (turning to Geo.) a clinician is best (at determining death); pathologists (can) clash; if they review the medical (data) it is not necessary for the police to review the case, but we can't FORCE scientists (to change conclusions); Drs. Mihalakis and Mason spent more time on the case...

M.C. - I could never get to talk with Dr. S. He did not acknowledge me.

W - That was outrageous ! I have made changes here... I set up three sections (under Sec Health), Moved the Chief Medical Examiner under the Public Health Section (now headed by Dr. Benjamin [who had explained that prior to meeting].) Dr.S. has written papers: one on sudden cardiac arrest during restraint; there probably are more minority persons held in such conditions. He is a scientist; he uses the morgue for whoever he deems in need of it, regardless of race..

M.C. -I Have been to seminars by Dr. S. (on use of autopsies); why not for Keith?

G - This is not a racial case; we have scientific questions that need to be addressed.

W - (There are different) conclusions - we cannot argue here - just the facts.

G - What facts does Dr. S. have to back up his conclusions? p.2

W - Let's review the questions for Dr. S.: why no autopsy? Was coroner there?

G - S. did not address the toxicological facts. Also there is a religious aspect here when a catholic is accused of suicide.

M - He was accused of a crime.\_

W - (He seemed perplexed; what does that mean?)

J - If suicide, he can't go to heaven.

W - No scientific facts are going to determine if anyone gets into heaven.

(continuing with questions for S).. How did you arrive at the postmortem conclusion? What is the explanation for the other four chemicals? I know he has no answer for that.

G - Yes, these are tough questions.

J - Let us review the ground rules again. We interact only with you, Not S.?

W - Yes.

Joan - A former Medical Examiner (has said) re manner of death (when there was a question as to) suicide or homicide, can use "undetermined"

W - Some people make more decisions than others; my wife is an internist and she gets much more detailed than I as a pediatrician; neither is better.

G - Is your wife named Barbara. I know her. . (talks with W )

Ty - I was born here, raised in Japan, came back to give something back to U.S., worked in Democratic party; believed in democracy and justice and now think Montgomery County is covering up in this case; please tell Governor Glendenning.

M.C. - Add these questions: what scientific data (did S have) in 1986? (With no autopsy.)

Why did the Medical Examiner ... allow the police to decide)?  
And I'd like the answers IN WRITING.

4:55

W said he had to leave at 5:30, got S. then reminded us again of the ground rules.

W - (To Dr S) Was Dr. Rogers on the scene?

S - (He then reads word for word the Deputy Medical Examiner's 31 July 1986 report ...

2:05 ... 3 PM examined the body in the woods ... worked with Officer Leverette and Detective Beasley (who discovered) [S read word for word their report] ... Keith depressed ... lost job ... car ... sister said he'd been missing for a week ... body ID'd by Rodney ... interviewed friends and boss who said Keith was a good kid, had mood swings ...

S - Spoke with Dr. Rogers (in recent years); he is an elderly man but he remembered the scene in the woods - there was no disturbed vegetation. He made an objective decision based on the evidence available; he was an experienced medical examiner and judged there was no need for an autopsy.

W - If a different medical examiner had been on the scene and asked for an autopsy, would the body have been moved to Baltimore (morgue)?

S - I came to this job in 1986 ... set up new guidelines (re autopsies?) ...

know the profound questions of families (in such situations) ... nowadays some families protest a decision to do autopsies ... there are individual reactions to loss of a loved one ... I appreciate this and changed the guidelines. Maryland has 500 suicides a year...

5:20 S still talking

W - (As to the unusual) chemicals, how were you certain (they were introduced) postmortem ?

S - There were two reports (Dr. Mihalakis' and Dr. Mason's); the pathologist reported no injuries to the body; the only mark was that of the ligature. This is consistent with Dr. Rogers' report (which also mentioned) maggots; (thus the) funeral home used SanVeino to delay decomposition. As for the other chemicals, benzene (wrong), toluene... in 1986 there was no (MSDS) requirement .. so it is likely they were contained in SanVeino...

If someone had subdued (Keith Warren) - but we saw no injury - we have no experience with the use of multiple chemicals... the use of two chemicals, maybe. it was more likely from the embalmer.

W - The other (constituents ) of SanVeino chemicals?

S - The 1986 (formula for) SanVeino ? (is not known)

W - The (my notes say crime?) crime scene showed no evidence of foul play.

S - If the woods had been disturbed, he would have done an autopsy; (Keith's) feet were on the ground (as if) asphyxiated.

W - If in 1986 all other conditions were the same but chloroform were used and SanVeino contained all five chemicals ..

S - [he didn't understand the question] New information can be reevaluated and decisions changed for different conditions. But I have never heard of death by five chemicals.

Geo - The key point is the distribution of the chemicals throughout the body

W - ? Don't care why ...

S - Arterial injection (data not available) ... (Keith's) levels were compared to normal (cases) not to long dead (bodies)... there is no evidence of the 31 July 1986 pattern of distribution (in Keith's body; nor as it ) changed after death. Toxicologists cannot say anything about such after death changes.

Jane - Did Dr. Smialek read the reference (cited by Dr. Mason ? Baselt, Cravey 'Disposition of Toxic Drugs and Chemicals in Man" 1995.

W - I have been under oath and asked such questions [cautioning S.]

S - I am very familiar with the reference. I have investigated deaths due to trichloroethane (inhalation). The chemical distribution due to injection is not known.

Ty - (Relative to) San Veino in 1986, why were other constituents not found? Camphor and phenol?

W - We can't go on [time up]

M.C. - (Something about the coroner)

S - Not (a) fair (question). Dr. Rogers was a trained, licensed medical examiner

M.B. - Why do the times (as recorded by the M.E.) [shows report] not indicate on scene?

W - Dr. Rogers told Dr. Smialek he was there.

Jane - Did Dr. Smialek contact ESCO, the only manufacturer that makes SanVeino?

S - I tried to contact the manufacturer of SanVeino ...They did not have an M.S.D.S. in 1986.

Joan - How many times has Dr. Smialek changed his decision? (relative to a contested suicide)

W - Decisions are based on evidence, doesn't matter the numbers (of changes)

S - I have changed a number of times; I'll get you a list of my cases.

5:45

W - Thanks (for coming) I know it is difficult for Mary ... and for Dr. Smialek. His personal integrity is under question... Dr. Rogers' medical certainty is most likely (correct) but not irrefutable. We can't bring back Keith... we cannot bully Dr. Smialek.

M.C. - I have a right to the facts; Keith Warren (was) zero(ed).

J - [to W) Are you satisfied with Dr. S' explanations.

W - (He responded with something like - I am not going to judge/ We are not here to judge.

J - What (next?); the end?

W - I (would suggest you ) go home and reflect on how Dr. Smialek could weigh the facts differently (than you do) and consider the cost to persist.... I know from my experience of antisemitism ... one can stay in outrage or let it go.

G - (There are many more aspects than prejudice) ... e.g. the drug scene; the 911 call was from a drug (users) house.

5:55 W & S leave; W thanks again and shakes hands, hugs Mary who says it is not over. Dr. B tells Mary he knows (she's not going to let it be) over.

Post meeting discussion with Joan Pitkin; she said:

That was politics.

In relation to the body parts issue - I was told to drop it !

I hear Dr. Smialek has connections ... friends in the Maryland Senate.

*Rog Thayer*

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