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“Unwrapped”

Part 2: Dr. Michael Berkland in Missouri

By Chris George and Denis Wright

*“Former Jackson County coroner Mike Berkland provides the brains for a scandal in Florida”
Pitch Weekly: Kansas City Strip, Aug. 30, 2001.*

November 21, 2001—Prior to coming to northwest Florida, Dr. Michael E. Berkland served as Deputy Medical Examiner for Jackson County, Missouri, from 1994 to 1996. He was terminated from the medical examiner’s office because he did not perform his duties as a medical examiner in a timely manner. He later lost the authority to perform autopsies in Missouri when the Circuit Court of Jackson County found that he had indeed falsified autopsy reports. Finally, in March 1999, Dr. Berkland lost his license to practice medicine of any kind in the state.

According to affidavits filed by Dr. Michael Young, the Acting Medical Examiner of Jackson County, and by Dr. Sam Gulino, the board-certified forensic pathologist who replaced Dr. Berkland, Drs. Young and Gulino were “conducting a review of files and specimens from autopsies handled by Dr. Berkland,” when they “located eight unsectioned brains in containers of Formalin.” When the doctors looked at Berkland’s documentation, Dr. Young notes, “we discovered that Dr. Berkland provided false information on the eight accompanying autopsy reports.” When these brains were sectioned and studied the findings did not in any way match the rather extensive notes contained within Berkland’s completed autopsy reports. Dr. Berkland “made completed descriptions of the brain in eight of the cases. In each case, there is clear evidence of an intent to make up autopsy findings without performing the necessary examination,” according to Dr. Young. A complaint was filed with the Administrative Hearing Commission of the State of Missouri.

Dr. Young provided testimony at the hearing, held in January 1998, as well as substantial documentation of the alleged falsified reports, including photographs of the unsectioned brains, a tabular analysis comparing Dr. Berkland’s ‘findings’ with the actual findings and “possible sources of plagiarism for some of Dr. Berkland’s descriptions.”

The Circuit Court of Jackson County found in its ruling on February 19, 1998, that the “defendant poses a substantial probability of serious danger to the health, safety and welfare of his patients, clients and/or the residents of Missouri.” The court continued that “respondent’s conduct as set forth herein constitutes misconduct, fraud, misrepresentation, dishonesty, unethical conduct and unprofessional conduct in the practice of medicine.” It also stated that Berkland exhibited incompetence and negligence and barred him from performing autopsies or from serving as a medical examiner in the state.

Dr. Berkland did not attend the hearing, but through his attorney he submitted a “Respondent’s Answer to Complaint” in which he denied most of the state’s allegations and stated that he possessed insufficient information to answer the allegations and “therefore denies same.” He also denied “each and every allegation” that in the eight autopsy reports concerning the brains he “made autopsy findings without performing the necessary autopsy examinations.”

Subsequently, on March 16, 1999, the Administrative Hearing Commission revoked Dr. Berkland’s Missouri license with no application for reinstatement for a period of six years, effective immediately, citing the findings from the earlier hearing in 1998. While the previous judgment applied only to Dr. Berkland’s ability to perform autopsies or to serve as a medical examiner with this new ruling Dr. Berkland was prohibited from practicing medicine in any capacity in the Missouri. Dr. Berkland filed an appeal, which was denied.

“A Good Memory”

In applying for a job with the Jackson County medical examiner’s office, Dr. Berkland submitted a resume that claimed internships with the legendary gunshot-wound expert, Dr. Vincent DiMaio, of Bexar County, Texas. However, in an affidavit filed with the court, Dr. DiMaio alleged that Dr. Berkland was not telling the truth: “Dr. Berkland never entered nor competed for a Forensic Pathology Fellowship at the Bexar County Medical Examiner’s office.”

According to Dr. Young’s deposition in Case No. CR95–6105, which involved a conviction appeal due in part to Dr. Berkland’s involvement in the case, at one point 39 percent of the autopsies he performed were incomplete. The Jackson County Prosecuting Attorney’s Office communicated concerns to Dr. Young regarding how many of Berkland’s incomplete autopsy reports were homicides and how many were pending trial. “They were concerned about having no reports at the time they would try a case, which would make it very, very difficult to prosecute the case,” Dr. Young said in his deposition.

In his deposition, Dr. Young further noted that there were cases in which death certificates were not completed, and there were also many cases in which there no autopsy reports or even any notes jotted down at the time of the autopsy. In one murder case (in which the accused was convicted and is serving a prison sentence based on Dr. Berkland’s report), Dr. Berkland allegedly allowed organs to be harvested from the body before the autopsy was performed, according to an interview with Nina Gennepten, the mother of the imprisoned man.

Dr. Young’s deposition claimed that Berkland was writing up “complete autopsy reports, a lot of description” but writing them much after the fact, sometimes many months after the autopsy itself. He asked Berkland “How is it that a year after performing the autopsy you are still able to remember it in such exquisite detail that you are able to come up with these reports?” Berkland’s reply: “Well, Tom, I have a good memory.”

In the same deposition, Dr. Young noted that Dr. Berkland had signed off on a case involving a car fire without performing an autopsy, normally required in any case involving suspicious death. Dr. Young also expressed concern regarding another case in which he wondered “if

[Berkland] had taken an obvious cause of death and put it as pending toxicology in order to escape from having it show up on this list [of late autopsy reports].” If a report was “pending toxicology,” that meant that the results of certain lab studies had not yet been received. In this particular case, however, there no reason for Dr. Berkland to have ordered toxicology studies, according to Dr. Young.

Scientist or Advocate?

Dr. Berkland’s attitude toward his role as a witness during criminal proceedings also became a point of contention. According to Dr. Young’s deposition “[Berkland] has accused me of stating that I felt that he got along too well with the police and that I did not like that. One of the things that I have been trained as a medical examiner and that my mentors have told me about is that, as a medical examiner, you’re a scientist and that you’re not an advocate. One of the concerns that I had with Dr. Berkland in terms of his involvement in testimony for the state, for instance, and his discussions with the police is that when he came back from testifying and when the person was convicted by a jury, he felt it was a personal victory.”

The question of whether Berkland was acting not as a scientist but as an advocate arose during a controversial 1995 case involving Sylvester Dudley, a young man who had been arrested for theft and driving without insurance. He was scheduled to be released on bond when for reasons unknown, he scaled the prison fence and died in a ditch not far from the facility. The medical examiner originally assigned to the case, Brij Mitruka ruled that Dudley died of multiple head trauma and believed, according to Dr. Young, “that the law enforcement people had assaulted Mr. Dudley and that was the cause of his death.”

According to an article in the Kansas City Star, Dr. Berkland took over the case and changed the cause of death to massive blood loss from cuts by the razor wire while scaling the fence. Dr. Young was asked to review the case by the Public Defender’s office and by Dudley’s family. In reviewing the files, Dr. Young found that Dr. Berkland apparently had not visited the death scene or examined the death scene photos that showed very little blood on the clothes. He had not examined the clothes themselves. He had not interviewed the paramedics on the scene or reviewed the ambulance log. When questioned, the paramedics stated that there simply was not enough blood to account for this conclusion and Dr. Young concurred stating that “he didn’t lose that significant amount of blood.” Dr. Berkland’s conclusion was ultimately overruled by Dr. Young in favor of death from coronary causes: during the events that lead up to Dudley’s death, his heart became overtaxed.

Dr. Berkland’s medical examination conclusions were also challenged in a number of murder cases, including the appeal of a conviction, in which the conviction was based in part on Dr. Berkland’s work and testimony as a medical examiner for Jackson County. The appellant’s attorney argued that his client was denied due process of law because the State of Missouri knowingly used Dr. Berkland’s false testimony; because the State of Missouri failed to reveal material exculpatory evidence regarding Dr. Berkland’s credibility and qualifications to testify as an expert witness regarding the cause of death; and that Dr. Berkland testified at trial with a new theory about the cause of death, a theory that Dr. Berkland had never mentioned before, and one which was not included in his written autopsy report.

Cases Remain Incomplete

Dr. Berkland remained chronically behind on the documentation of the autopsies and medical examinations he had performed, with many of his incomplete medical examinations being more than a year old. Dr. Young, after several warnings, terminated Berkland's contract in a "Memorandum, Termination of Agreement for Medical Examiner Services" dated January 1996 and effective that February. The notice indicated that Dr. Berkland should complete the deficient cases, be in the office only between 8 a.m. and 4 p.m., not remove any other items (such as records or slides) from the office and, finally, to return any material that had been removed from the premises.

Despite the specific order to do so, many of these unfinished cases were never completed by Dr. Berkland. In his deposition Dr. Young stated that "Dr. Berkland, even to this day, has not completed all of his reports, and there remain files that have no autopsy reports." Dr. Young said he tried to piece together the loose ends, but given the lack of notes in the files, he had to sign some of the incomplete death certificates with the cause of death as "undetermined."

One autopsy that was completed by Dr. Berkland (in a private case) was that of a young woman whose sudden death following routine surgery went unexplained because Dr. Berkland's did not complete the autopsy report until more than 16 months after he did the autopsy. When Dr. Young discovered this young woman's brain in the medical examiner's office, after Dr. Berkland had been terminated, Dr. Young said he notified the family. According to an interview with the mother-in-law of the deceased, the family immediately sought and received a court order demanding the return of the missing organ, having never given permission for it to be retained in the first place. However, she said before they could make arrangements to retrieve it from the medical examiner's office, Dr. Berkland, allegedly disobeying Dr. Young's instructions, had managed to gain access to the office and remove it. She said the family then had to again return to court to get an order to recover it from Dr. Berkland's home. Their attorney made the arrangements and when the attorney's agent arrived at Dr. Berkland's home to retrieve the brain, Dr. Berkland retrieved the brain from the back of his car, she said.

Dr. Young would later comment about this incident in a deposition: "Dr. Berkland did several things that made me very, very wary and nervous. He took keys to the desk and locked them in the desk so that we had to get a locksmith to come in there to get into the desk. I was concerned that should he have been allowed access to the office that he could have done all kinds of things. And so as a means of protecting the office, I restricted his access to the office. That one time that he went in there to get the organs was a situation where I had warned the investigators 'Do not let him in.' But Dr. Berkland is very clever and very artful, and somehow he got by the investigators and went in and got them."

And Now Florida

Dr. Berkland's license to practice as a medical examiner in Florida was temporarily suspended by the Florida Board of Osteopathic Medicine when the charges and court rulings stemming from Missouri came to light. A story filed by the Associated Press and reprinted by

Beachcomber.com, states that Berkland felt the charges against him in Missouri were politically motivated and unfair as he was unable to present evidence in his defense. He also maintained that the brain sectioning charges were due to proofreading errors. "I am not trying to stave off punishment," Dr. Berkland is quoted as saying. "I believe I certainly should be punished."

One month after the body of Lori Klausutis, 28, was found in the North Fort Walton Beach, Florida, office of retiring Congressman Joe Scarborough, Dr. Michael Berkland released his autopsy report. The report concluded that Klausutis, who had been the picture of health and an athlete, died of head injuries caused when an undiagnosed heart condition caused her to faint, fall and hit her head on a desk.

Questions about the conduct of and findings from the Klausutis investigation surfaced almost immediately, and the information released by authorities throughout the case was riddled with contradictions and reversals. After first agreeing publicly with Police Chief Hogue in his statements to the press that there were no visible signs of trauma to the body nor evidence of foul play, Dr. Berkland admitted in his final press conference that there had been "a scratch and a bruise" visible. His official report, in turn, revealed massive multiple head injuries (see Unwrapped, Part One).

Falsehoods and rumors regarding Klausutis' health history, first attributed to the imaginations of local writers, were eventually traced back to Scarborough and his public relations manager Mick Serrano who, on the morning of the discovery, placed calls to various press outlets about Klausutis' supposed ill-health and epilepsy. The source of the rumors was confirmed in interviews with Tom Wahl and Anna Dobbins, Wear-TV (ABC), Pensacola, and with Ron Kelly, news director, WGTX Radio, 1280 AM.

The retractions and changing statements by public officials were not the only oddities in the case. Key witnesses also changed their stories as to what had happened. Juanita Bergmann, who along with her husband Andreas found the body, first said that it was obvious that Klausutis had suffered a seizure. Later Ms. Bergmann, a health worker, stated that since the family accepted the official findings that she would accept that the autopsy report was correct in finding no evidence of a seizure. She also said that she had not been contacted again by any investigative official subsequent to her initial deposition on the morning of the discovery.

Ms. Bergmann insisted in interviews that when they arrived for their early morning meeting that the lights in the office were off. Her signed police deposition, however, states that the lights were on when they arrived. Don Graham of D-Train Security originally stated, and his notes confirmed, that when he checked the office complex around midnight, the doors were locked and the lights off. Later, however, he changed his story, saying that he might have missed checking the lights and doors at all that night.

Research assistance provided by Celeste Harrison Whitlow, Sheila Stanley and R.S. Miller.

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