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Commentary

Autopsy errors one more troubling trend

By LISA FALKENBERG Copyright 2009 Houston Chronicle

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Shoddy crime lab work, win-at-all-cost prosecutions, overburdened court-appointed attorneys, arson reports relying on mystics rather than science.

These and other problems affecting the Texas' criminal justice system have been thoroughly explored in the media in recent years.

But last week, a series by the Fort Worth Star-Telegram unearthed another, lesser-known weakness: Error prone autopsies performed by overworked, sometimes under-qualified pathologists in medical examiner offices across the state.

For sure, the quality of important work done by these doctor-detectives varies from pathologist to pathologist, and much of it is thorough and accurate. Harris County, for one, has implemented significant reforms. But the tales of "misidentified bodies and botched examinations" in the backdrop of relentless assembly line pressures, illustrate a troubling trend.

In many places, it ain't exactly like CSI.

The series was long on anecdotes: A 23-year-old male child molester almost got away with faking his own death after the Travis County Medical Examiner's office mistook an 81-year-old woman's burned body for his.

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The Tarrant County Medical Examiner's Office reported that a man died from injuries in a traffic accident until a funeral director discovered a bullet in his head.

Then there's the local case of Larry Swearingen, who's still seeking relief from Death Row for a murder conviction based in part on the flawed testimony of former Harris County Medical Examiner Joye Carter.

After criticism, Carter later reviewed all the evidence and reversed her findings. But the effects of her mistakes persist. Montgomery County prosecutors have stood by the conviction, despite mounting evidence and testimony from other medical examiners and experts that Swearingen was actually in jail when Melissa Trotter's body was dumped.

The series, however, was short on statistics that would actually help quantify the extent of the problems. This illustrates part of the issue: with lack of oversight and adequate standards comes lack of information.

Bexar County Chief Medical Examiner Randall Frost called the situation a travesty for Texas: "The state does not keep track of MEs in any shape, form or fashion," he said, adding that the state doesn't even know how many certified forensic pathologists work in government offices.

In Texas, the Star-Telegram reported, medical examiners don't need forensics training or to pass an exam to perform autopsies. The state

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doesn't even require them to take notes, produce body diagrams or photographic evidence. Accreditation by the National Association of Medical Examiners is voluntary and so is certification by the American Board of Pathology.

But even in counties like Harris, where Medical Examiner Dr. Luis A. Sanchez requires board certification, it's hard to determine to what extent.

When the Star-Telegram identified a Harris County forensic pathologist who lacked board certification, spokesman Dan Morgan said the doctor had "amply demonstrated his expertise during his tenure" and thus had been grandfathered out of the certification requirement.

When the paper found that another Harris County pathologist, an assistant deputy chief, had let his medical license lapse, the doctor was temporarily reassigned to administrative duties. Morgan told me the lapse had to do with unpaid dues and the problem was promptly addressed. We'll have to take his word for it.

And although Harris County boasts accreditation by the National Association of Medical Examiners, when the Star-Telegram asked for the most recent inspection report, the county attorney's office said it didn't have it and refused to obtain one.

Why? The medical examiner's general counsel wrote in an e-mail: the office "is not obligated under law" to do so.

There's nothing like the Texas Forensic Science Commission to examine the newspaper's findings. The State Health and Human Services Committee is concerned with health issues regarding the living, not the dead.

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A bill by Sen. Jeff Wentworth, R-San Antonio, which would have required higher standards in the form of certifications, failed last session.

For now, all we've got are a bunch of anecdotes and quotes pointing to yet another weak link in the Texas justice system. Considering the implications for everyone from the crime victims to the Swearingens behind bars, the evidence deserves more attention.

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