

Britain: Coroner rejects inquest into death of Dr. David Kelly

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In an extraordinary move, Oxford Coroner Nicholas Gardiner has ruled that there will be no resumption of an inquest into the death of top weapons inspector and whistleblower Dr. David Kelly.

Kelly was at the centre of the scandal over Prime Minister Tony Blair's claims that Iraq possessed weapons of mass destruction, because he had spoken to the BBC about disquiet within the security services over the accuracy of the government's intelligence dossiers.

His body was found in a woodlands field near his Oxford home on July 17, 2003, only days after he had been forced to give public testimony over his claim that the government had hyped up intelligence on Iraq's weapons of mass destruction.

An inquest into his death had met on July 19, but had only issued a brief statement from Gardiner. On August 14, the coroner's inquest was closed down after a superficial investigation that consisted almost exclusively of hearing evidence from an amended medical report by Home Office pathologist Dr. Nicholas Hunt.

Gardiner said that the report showed the main cause of death was a number of incisions into Kelly's left wrist. Hunt had concluded that the main cause of death was haemorrhage and that there were two wounds that would have been fatal. The secondary cause of death was ingestion of the prescription painkiller Co-Proxamol, though toxicology reports showed the amount present in Kelly's blood would not alone have been enough to kill him.

Gardiner ceded any further investigative powers over to the inquiry into Kelly's death convened by the government under Lord Hutton. He did so in response to an order from the Lord Chancellor, Lord Falconer (the government's legal advisor), citing Section 17a of the Coroner's Act of 1988 allowing a public inquiry chaired or conducted by a judge to "fulfil the function of an inquest."

Gardiner again cited the authority and findings of the widely discredited Hutton Inquiry to justify his rejection of any resumption of the official inquest.

Lord Hutton had concluded that Kelly had taken his own life by taking an overdose of Co-Proxamol painkillers and then cutting his left wrist. Hutton said he was satisfied that the "principal cause of death was bleeding from incised wounds to his left wrist" and that "no other person was involved."

During a perfunctory 15-minute hearing on March 16 at the Old Assize Court in Oxford, Gardiner ruled that he in turn was satisfied with Lord Hutton's conclusion that Kelly took his own

life.

The coroner said he had received a large amount of correspondence about the case from "people who believed themselves to have relevant information to offer," from forensic pathologists and other medical experts and including three letters that very morning.

But he ruled that the disagreements within the medical profession over the official explanation for Kelly's death did not warrant official examination. He did so by asserting that even a full inquest would produce differences of expert opinion: "It is not exceptional for experts to disagree among themselves, in fact, it would be exceptional if they were to all agree."

He called those who questioned the verdict of suicide "conspiracy theorists" and said that "*No properly interested persons*" had persuaded him against the suicide verdict.

He had been given access to an "excellent report" by Detective Chief Inspector Alan Young of Thames Valley Police including photographs, records, interview transcripts, statements and "a great deal else." As a result, "My feeling is that the Lord Chancellor's belief in the adequacy of the inquiry was well founded."

Gardiner's decision flies in the face of both precedent and the continued public speculation and expert disagreement over precisely how Kelly died.

A number of medical experts, as well as friends of Kelly, either do not believe he took his own life at all or dispute the explanation given. And even those who accept in general the findings do not agree that the Hutton inquiry is an adequate substitute for a coroner's investigation.

Coroner Dr. Michael Powers said afterwards, "I am concerned that the due process has not been followed. There evidently are contradictory views that were never put to the experts who gave evidence before Lord Hutton.

"In consequence the rigours that are normally undertaken at a coroner's inquest simply were not fulfilled.

"The real issue is whether there has been sufficiency of inquiry and I don't think there has been. The inquest is the best way of getting to the root cause of death. Lord Hutton did not take the opportunity fully to explore all the issues."

Another coroner, Professor Robert Forrest, said, "An inquest would have been a more searching inquiry into how Dr. Kelly came to his death than the remit of Lord Hutton."

He was personally satisfied with Hutton's verdict, but accepted

that there were still “inconsistencies and some difficulties.”

Of the procedural weaknesses in the Hutton inquiry, it should be noted that while in their investigation police interviewed 500 people, took 300 witness statements and seized more than 700 documents, fewer than 70 statements were passed on to Hutton.

In a series of letters to the *Guardian* starting on January 27, a growing number of respected scientists in their field—those dismissed by Gardiner—have stated their belief that Kelly was possibly murdered. These include public health consultant Andrew Rouse, specialist in anaesthesiology Searle Sennett, specialist in trauma David Halpin, specialist in radiology Stephen Frost, specialist in pathology Dr. Peter Fletcher and specialist in vascular surgery Martin Birnstingl.

On February 12, they wrote, “Our criticism of the Hutton report is that its verdict of ‘suicide’ is an inappropriate finding. To bleed to death from a transected artery goes against classical medical teaching, which is that a transected artery retracts, narrows, clots and stops bleeding within minutes. Even if a person continues to bleed, the body compensates for the loss of blood through vasoconstriction (closing down of non-essential arteries). This allows a partially exsanguinated individual to live for many hours, even days.”

They respond to a critic:

“Professor Milroy expands on the finding of Dr. Nicholas Hunt, the forensic pathologist at the Hutton inquiry—that haemorrhage was the main cause of death (possibly finding it inadequate)—and falls back on the toxicology: ‘The toxicology showed a significant overdose of co-proxamol. The standard text, Baselt, records deaths with concentrations at 1 mg/l, the concentration found in Kelly.’ But Dr. Allan, the toxicologist in the case, considered this nowhere near toxic. Each of the two components was a third of what is normally considered a fatal level. Professor Milroy then talks of ‘ischaemic heart disease.’ But Dr. Hunt is explicit that Dr. Kelly did not suffer a heart attack. Thus, one must assume that no changes attributable to myocardial ischaemia were actually found at autopsy.”

On February 19, they wrote, “The fact that Dr. Kelly’s ulnar artery was completely severed makes it even less likely that bleeding would have been sufficient to cause his death, as a small, completely severed, wrist artery quickly retracts and narrows, promoting blood-clotting.”

They continue, “At the Hutton inquiry, crucial pieces of forensic evidence were missing: it is not clear whether or not a full battery of tests was done on the lungs, the blood, the heart and the soil. Dr. Hunt’s report, for instance, did not provide information on an estimated residual blood volume. If Dr. Kelly lost significantly less than five pints of blood, then haemorrhage could not have been the cause of death.”

On March 15, Dr. C. Stephen Frost replied to Gardiner’s claim in the media that they were not “properly interested persons”:

“I and my fellow signatories have yet to be seriously challenged. Further, the number of doctors (and lawyers and concerned citizens) supporting our view that Dr. Kelly’s death should be properly investigated continues to grow....

“The coroner has decided that we are not ‘properly interested persons’ at the coming hearing, when it seems to be the case that a

‘properly interested person’ is anyone who the coroner decides is ‘properly interested.’ We (doctors and lawyers) have written a final submission to the coroner that our doubts about Lord Hutton’s verdict do constitute an ‘exceptional reason’ for his re-opening the inquest.

“Last Tuesday, Channel 4 News showed a special report about the debate which has arisen following our letters to the *Guardian*. Even our opponents, Professors Milroy and Forrest, a forensic pathologist and a forensic toxicologist, respectively, agreed that a full inquest should be re-convened, so that these reservations which many people have could be explored in the proper manner.

“Crucially, Dr. Nicholas Hunt, the forensic pathologist who gave evidence to the Hutton inquiry, and on whose evidence the suicide verdict was overwhelmingly based, was also shown on the report to have telephoned Channel 4 that day to say that he too thought that a full inquest should be reconvened.”

On the date the inquest was cancelled, Dr. David Halpin told BBC Radio’s *Today* programme that the Hutton inquiry had been “rather limited in its questioning” on the issue of cause of death and “The evidence that it was suicide is open to question.”

“It is unlikely that a man could have lost half his blood volume from cutting one artery cleanly,” he said. Kelly appeared to have taken only a third of the pills needed for a fatal dose, meaning that there is “a possibility, obviously” that the scientist was killed.

He stressed that they were not prejudging the verdict of a proper coroner’s inquest. “What we are emphasising is the adequacy of the inquiry so far. We have not launched into any theories of how or what might have happened.”

The Kelly family have accepted Hutton’s verdict, but have made clear that they believe he ignored evidence that the government set out to expose and smear the scientist. Their legal representative, Jeremy Gompertz, QC, told Gardiner they were disappointed he did not “consider more fully the extent to which the state of mind in which Dr. Kelly took his own life was induced by the failings of the Ministry of Defence in the exercise of the duty of care owed as his employer.” Mrs. Kelly may sue the Ministry of Defence for compensation.



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