Police processes and the HTA

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18 March 2015
Outline

- The HT Act
- Historical issues - the ACPO audit
- Disposal
- Forensic PM examinations and tissue retention at HTA inspections
(1) Subject to subsection (2), nothing in section 14(1) or 16(2) applies to anything done for purposes related to—

(a) the prevention or detection of crime, or

(b) the conduct of a prosecution.

(2) Subsection (1) does not except from section 14(1) or 16(2) the carrying-out of a post-mortem examination for purposes of functions of a coroner.
Section 39 of HT Act

(3) The reference in subsection (2) to the carrying-out of a post-mortem examination does not include the removal of relevant material from the body of a deceased person, or from a part of the body of a deceased person, at the first place where the body or part is situated to be attended by a constable.
Forensic PM examinations

If a person dies in circumstances considered to be ‘suspicious’ or where homicide is suspected, HM Coroner after consultation with the police can authorise a Home Office Registered Forensic Pathologist to perform a forensic PM examination

- Ascertain the identity of the deceased
- The cause/surrounding circumstances of death
- To allow collection of evidence from the body
Powers to seize and retain human tissue

- Police and Criminal Evidence Act 1984 (s19)
  - Seizure by police lawfully on premises
  - Police have the legal right to be present at a PM examination under Coroners and Justice Act 2009

- Police and Criminal Evidence Act 1984 (s22)
  - Retention of material seized

- Criminal Procedure and Investigation Act 1996
  - Material obtained during criminal investigation, which may be relevant may be retained until the end of criminal proceedings and following completion of appeals procedure

- Common Law – Seizure when not on premises
Background

- No coherent national policy on the seizure of human tissue
- Murder Manual 2006, Section 11 (Pathology) gave little clear guidance on this subject
- Disparity between working practices of different police forces
Tackling matters

- In some cases, police forces did not know under what powers/authority human tissue had been seized and retained historically
- A National Gold Group was set up to oversee an audit
- Legal advice also sought from Counsel by the National Policing Improvement Agency (now the Home Office Pathology Unit)
Report on the Police Human Tissue Audit 2010-2012

Report into the Retention of Human Tissue by Police Forces in England, Wales and Northern Ireland

Report by the Association of Chief Police Officers and the National Policing Improvement Agency
ACPO audit report

- Category 1 - Material taken at PM examination which would not generally be considered part of the body e.g. scrapings, fingernails, hair, stomach contents

- Category 2 - Samples of human tissue which are not a significant part of the body e.g. small tissue samples, blocks slides etc

- Category 3 - Samples of human tissue that incorporate a significant part of the body e.g. organs, limbs etc
ACPO audit report

“The audit showed that 492 whole organs or ‘significant’ body parts were held by or on behalf of police in police premises, hospital mortuaries and other establishments. These relate to historical cases, some going as far back as 1960.”
Putting retention into context

- **2010** – 102,000 PM examinations conducted under coronial authority
- **Between 1960 and 2010**
  - 6.2m PM examinations conducted under coronial authority
  - With an average of 2.45% being forensic cases
- Cases identified in the audit represented less than **0.33%** of forensic PM examinations
How did this happen?

- Recording of material held for police purposes and for HM Coroner?
- Responsibility for seeking wishes of the family for retained tissue?
- Legitimate retention of samples for long periods by the police, as investigations/appeals continue
- What happens when the police close their interest in a case?
- Material may get ‘lost’ in the system
Disposal of Category 3 materials

- If disposal is within 5 years of the post-mortem examination and the family are still contactable they should be contacted and an offer of return made.

- After 5 years a balance must be struck between the significance of the material and the time from the post-mortem examination. The more significant the material the longer the period it would be appropriate to contact the family.
ACPO audit report

- Recommendation 6
  “Review of police exhibits held on HTA licensed premises should be included within the regular HTA inspection process with a mechanism for reporting back to the police and the Home Office.”
- Protocol between ACPO and HTA revised to reflect this new responsibility
What did we do?

- We conducted a pilot of six PM establishments (routine inspections) that
  - Undertake forensic PMEs and store tissue
  - Undertake forensic PMEs and tissue is analysed/stored elsewhere
  - Don’t carry out forensic PMEs but will receive material under police powers

- We reviewed processes for
  - Forensic PM examinations
  - Storage and traceability of Category 3 materials
  - Engagement with police and HM Coroner

- We were accompanied by Home Office (Forensic Pathology Unit) observers
Plans for the future

- We will incorporate review of police processes into our routine site visit inspections of PM sector establishments
- We will share findings with Forensic Pathology Unit after every inspection
- There will be no description of findings in relation to police processes in our site visit inspection reports
Reporting to Pathology Delivery Board

- Established by Royal Prerogative
- Members drawn from Police (National Police Lead for Forensic Pathology), Home Office, Coroners Society, British Association in Forensic Medicine, the CPS and the Forensic Science Regulator
- Responsible to the Home Secretary for overseeing the forensic pathology service for the criminal justice system in England and Wales
- HTA invited to attend to feed back findings
- Excellent work done to date