

# The True Cause of the Death of David Kelly

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Dr Kelly was a brilliant man who did his best for his country. We owe it to him and ourselves to discover the true cause of his death

In this powerfully argued article, doctor and barrister Dr Michael Powers QC explains why justice demands an inquest is held



Doubts: Dr Michael Powers QC says key questions were not asked about Dr Kelly

Since his untimely death in July 2003, questions have continued to be raised about the circumstances of Dr David Kelly's death. Many wonder whether he really killed himself and speculate that he was murdered. His sudden death shocked the nation – how could it have happened?

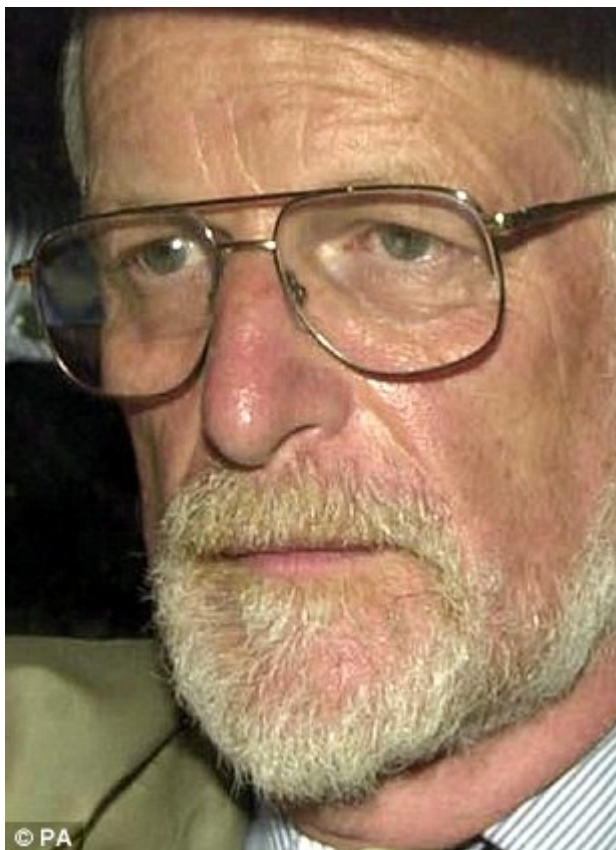
As a specialist practitioner in law and medicine, I feel a responsibility to the two professions to air my doubts about a case that bridges both worlds.

Any question of suicide or murder has to follow the determination of the cause of death. To do otherwise risks putting the cart before the horse. It would, for example, be scientifically and logically unsound to assume suicide and then to set about finding evidence to prove it.

Before asking whether a deceased himself or a third party put the bullet in the head, it is necessary to determine first that there was a hole in the head and secondly that the deceased died because of it.

For 1,000 years, coroners have been investigating sudden, violent and unnatural deaths. They have got good at it. Suicide used to be a crime and a finding of self-murder is an unhappy reflection on the victim and his family and friends.

That is why suicide has to be proved to the same high standard as murder. It has to be proved beyond reasonable doubt that the deceased did the act which killed him with that intention in mind.



Puzzle: Many wonder whether Dr Kelly really killed himself. Below, how the Mail on Sunday reported on the story

The normal inquest process in the case of David Kelly was interrupted by the order of the Government. Lord Falconer, the Lord Chancellor at the time, exercised a rarely used power to require the Oxfordshire coroner to adjourn his investigation and to give that responsibility to Lord Hutton.

The coroner had the power to compel witnesses to attend and to give evidence on oath. The Government which took our country to war with Iraq chose not to give these considerable powers to Lord Hutton.

Although there were 24 days of evidence taken over two-and-a-half months, the whole of the medical evidence took no more than a half day. The evidence of the pathologist, toxicologist and forensic biologist can be read in 30 minutes. No one could say this was a detailed investigation into the death.

I was trained as a doctor and during my years in medical practice I often had to pass fine

catheters into the radial artery in the wrist. This is where medics usually feel the pulse. It can even be seen pulsating in many people. Dr Kelly's wrists were not slit. Neither radial artery was cut. This alone is a strange finding in someone who intends suicide by this method.

Deeper in the wrist on the side of the little finger lies the ulnar artery. It is not used for catheterisation because it is too small. Yet Lord Hutton, on the unchallenged evidence of a single pathologist, concluded that Dr Kelly bled to death from the severance of this single small artery in the left hand.

## **There wasn't much blood about—if any**

No courtroom drama would be complete without critical witnesses being challenged through the cross-examination process. Like all barristers, I received a rigorous training in advocacy and, because of its enormous importance, I take time from my practice to train barristers in this art. A skilful cross-examination is often the key to ascertaining the truth.

None of this happened in Lord Hutton's inquiry and witnesses were simply led through prepared evidence. Reading the transcripts, far from providing any sense of satisfaction, leaves me with feelings of frustration. Opportunity after opportunity was lost to pursue answers until every avenue had been thoroughly explored and every 'escape route' closed.

At the very end of his evidence, Dr Nicholas Hunt, the pathologist who had conducted the post-mortem, was asked: 'Is there anything else you would like to say concerning the circumstances leading to Dr Kelly's death?'

Such a question gives the witness who is favourably disposed to the questioner an open opportunity to go further than his witness statement. It is NOT a question ever asked in cross-examination as it provides a free pass to an escape route.

Dr Hunt answered: 'Nothing I could say as a pathologist, no.' He is an experienced expert witness. What on earth did that answer mean? He was there to give evidence as a pathologist. He knew that. Everyone knew that. So why did he give that answer? It begged the question whether there was anything else he knew. Was he concerned about any other forensic or factual evidence? These questions were never asked.

Hutton focused on the so-called dodgy dossier and the conflict between the Government and the BBC which, at that time, was more in the public eye. Because it was taken for granted that Dr Kelly had killed himself, the medical evidence was insufficiently explored. In the absence of any bleeding tendency from a clotting deficiency (and there was no evidence of this) fatal haemorrhage from a severed ulnar artery is so improbable that more evidence was essential before such a conclusion could be reached.

If you want to know how much beer has gone from a full pint glass, it is easy. You can either

measure how much has been poured out or measure how much remains. To be confident, you would measure both. The same approach should have been adopted in this case.

As it was not, there is no evidence as to whether there was sufficient haemorrhage from the ulnar artery to cause death. The inquiry fell into the trap of the circular argument: Dr Kelly died, therefore he must have lost sufficient blood.

In my work as a barrister I meet many medics, but I have never met a single doctor who has disagreed with the proposition that it is extremely improbable that haemorrhage from a single, severed ulnar artery would ever be a primary cause of death.

Yet this extreme unlikelihood was never explored with Dr Hunt. Whatever the reason, this was a serious failure of the Hutton Inquiry. It has understandably led to a suspicion of cover-up.

This could not have been the cause of death, the argument goes. If it were not the cause, then what did cause his death? Was it something Dr Kelly did to himself, intending to cause his own death, which has not yet been discovered? Was it part of some elaborate plan by others to end his life?

The only way to stop the many theories which abound is for there now to be a thorough and open investigation by way of a fresh inquest. Surely the Government realises that the way to foster conspiracy theories is to be secretive and to resist calls to disclose all the medical evidence. We should pay tribute to Dr Kelly. He was a brilliant man who did his best in the service of this country. He deserves our gratitude and respect. We owe it to him and ourselves to ensure the true cause of his death is ascertained.

Dr Michael J. Powers QC is a barrister specialising in medical causation and a Fellow of the Faculty of Forensic and Legal Medicine of the Royal College of Physicians to which he is an appointed examiner.

Read

more: <http://www.dailymail.co.uk/news/article-1303190/Michael-Howard-leads-MPs-Dr-David-Kelly-inquest.html#ixzz1rUn5UqRO>

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