

## CHAPTER THREE

### The Evidence and the Oral Hearings

- 3.1 Having identified the cases to be investigated, the Inquiry team opened a file on each death and the work of collecting and analysing the evidence began. Further staff were taken on as necessary to assist with this work; the legal team reached maximum strength at the end of the summer of 2001, by which time a further six solicitors – among them Assistant Solicitors to the Inquiry, Mrs Julie Denham and Miss Julie Clarey – and a total of nine paralegals had joined the legal team.

### The Collection of the Evidence

- 3.2 The investigation of 888 cases has necessitated a huge evidence-gathering exercise on the part of the Inquiry. A great deal of effort has gone into tracing witnesses, obtaining documents and doing the type of ‘detective work’ normally associated with police investigations. The result of all this work has been the accumulation of an enormous body of evidence, which I have drawn upon in order to reach my decisions. The main sources of evidence upon which my decisions are based can be identified as follows.

#### Police Statements

- 3.3 The Inquiry has had access to 2311 witness statements which were taken by the police in the course of their enquiries in Todmorden and Hyde.

#### Inquiry Witness Statements

- 3.4 In addition, the Inquiry has obtained a further 1378 statements from relatives and friends of those persons whose deaths have been investigated, and from neighbours, paramedics, district nurses, police officers, home helps, residential home and other care staff – in short, anyone who might be able to shed some light on the circumstances of any of the deaths under investigation. Generic statements were also obtained from Shipman's practice staff, his former partners and others who had background evidence which might assist in informing the Inquiry about the circumstances surrounding the deaths.
- 3.5 Initially, the Inquiry employed solicitor agents, Eversheds, to take witness statements on its behalf. That task was subsequently taken over by members of the Inquiry legal team. The statements of those families who are legally represented were taken by their solicitors, Alexander Harris, at the Inquiry's request.

#### Coroner's Documents

- 3.6 Where there was a post-mortem examination and/or an inquest at the time of the death, the coroner's files contained documents relating to the death; such documents also sometimes existed if a case had been referred to the coroner but no post-mortem examination followed. All the relevant files were obtained from the coroner as described in Chapter Two.

### **Documents Forming Part of the Death Registration and Cremation Certification Processes**

- 3.7 The nature and significance of the documents created in the course of the death registration and cremation certification processes are fully explained in Chapter Five. Some of these documents, notably MCCDs and cremation Forms B, have been of great importance in the decision-making process.

### **Practice Records**

- 3.8 The Inquiry obtained from the police a full set of appointments sheets and surgery visits books, together with other documents, from the Market Street Surgery; these have been of the utmost importance in piecing together the events surrounding many of the deaths being investigated. A visit to the Market Street Surgery by members of the Inquiry team yielded further material.
- 3.9 Very few documents from the Donneybrook practice were available to the Inquiry until October 2001, when Mrs Primrose Shipman delivered three boxes of documents which had been cleared out of the Market Street Surgery in, she believes, about April 2001, and stored at her home ever since. One of those boxes contained Shipman's visits books from 1979 to 1992, which covered all but his very earliest time at Donneybrook. Receipt of those books necessitated a complete reconsideration by the Inquiry of all pre-1993 deaths in the light of the information which they contained.
- 3.10 The nature and purpose of the practice records is described further in Chapter Four.

### **Medical Records**

- 3.11 Initially, the Inquiry obtained from the police 362 sets of general practitioner notes (also known as 'Lloyd George' notes) and hospital records. The Inquiry has since obtained a substantial number of further medical records, as well as other records of a similar type, such as district nursing notes.
- 3.12 Up to 1996, responsibility for the retention and destruction of general practitioner records lay with the relevant Family Health Service Authority (FHSA); after that time, responsibility devolved onto the local health authority. Until 1994, the rule was that the records of deceased patients had to be retained by the FHSA for only three years after the completion of all the administrative procedures connected with the death. Further guidance was issued to authorities in July 1994. This guidance stipulated different periods of retention for different categories of patient, the longest minimum period being 25 years. For ease, the local FHSA and, afterwards, the West Pennine Health Authority, instituted a policy whereby all records would be kept for 25 years. Although theoretically that should mean that all records from July 1991 onwards have been preserved, in practice the new system took some time to implement and, consequently, few records from 1991 survive. In general, therefore, records dating from before 1992 are not available for examination.
- 3.13 From 1973, general practitioners were given the option of having the records of their deceased patients returned to them at the expiration of the three year period. Shipman was one of a number of Tameside general practitioners who availed himself of this opportunity. He then stored them in a completely haphazard fashion in his house and

garage, where they were found by police who were searching the premises as part of their investigation into Mrs Grundy's death. Most of the records found there post-dated 1991, but there were some records relating to deaths occurring before that time. They had thus been preserved longer than would have been the case had they remained in the custody of the Health Authority.

- 3.14 The procedure for destroying medical records has, of course, meant that few remain from Shipman's time at the Donneybrook practice. The Inquiry has, however, obtained computerised records relating to some of Shipman's patients who died while he was practising at Donneybrook. A computer was installed at the surgery in 1989 and the Inquiry obtained access to a copy of the patient data from the Donneybrook computer hard drive. A search of the Donneybrook premises, carried out at the request of the Inquiry, also revealed the medical records for 21 of Shipman's deceased patients, which had been retained by the practice and subsequently forgotten.
- 3.15 The medical records, where available, have been invaluable in informing the Inquiry of the deceased's medical history and state of health prior to death, as well as of Shipman's treatment of the deceased and his involvement, if any, around the time of death.

#### **Other Contemporaneous Documents**

- 3.16 The Inquiry has obtained many other documents, such as police sudden death reports, paramedics' 'Diagnosis of Adult Death' forms, telephone billing records, logs kept by the deputising doctor service employed by Shipman, entries in the diaries of district nurses, incident books kept by wardens of sheltered accommodation – even entries from individuals' personal diaries which had some relevance to the circumstances of death. In addition, the Inquiry sought records from all the residential care homes in the Hyde area where deaths of Shipman's patients had occurred. Many of these were no longer available but some – notably the Charnley House admissions registers (from 1970) and daily report diaries (from 1978) – have survived.

#### **The Arrangements for the Distribution of Evidence**

- 3.17 It was decided at an early stage that the Inquiry hearings should, as far as possible, be paper free. Thus, the evidence to be placed before the Inquiry was scanned into an image database and released to legal representatives on a series of CD-ROMs. Release of the evidence in advance was subject to an undertaking by the recipient not to disclose the material to anyone other than the relevant legal team and their clients and to return the CD-ROMs and any paper copies to the Inquiry once the Inquiry was over, or otherwise upon request.
- 3.18 The evidence available to legal representatives has been regularly updated by the issue of new CD-ROMs; in between issues, any relevant documents added to the system have been distributed in the form of paper copies which could then be discarded on receipt of the next CD-ROM.
- 3.19 At the conclusion of Phase One, more than 37,500 pages of documents had been scanned into the image database.

## The Opening Meeting

- 3.20 On 10<sup>th</sup> May 2001, the Inquiry held an Opening Meeting, at which I set out my intentions with regard to the conduct of the future hearings. On that day, I announced that oral hearings of the evidence relating to Phase One would begin on 20<sup>th</sup> June 2001. By then, the Inquiry's investigative work would by no means be complete but there would be a tranche of cases in which the evidence would be ready to be heard.

## Representation

- 3.21 Before and after the Opening Meeting, I granted leave to various individuals and organisations to be represented before the Inquiry during Phase One and, for some, recommended funding for that representation at public expense. A list of participants in Phase One and their representatives can be found at Appendix B.

## The Application to Broadcast

- 3.22 Before the start of the oral hearings in June 2001, I received letters from three organisations, seeking the right to film and broadcast the Inquiry proceedings. I decided to refuse my permission, as it seemed to me that exposure to the additional publicity which would be caused by broadcasting would give rise to an unacceptable degree of distress for the relatives of those of Shipman's former patients whose deaths were under investigation.
- 3.23 Shortly before the Opening Meeting on 10<sup>th</sup> May 2001, I was asked by one of the organisations which had made the previous application to give full reasons for my refusal of permission. By this time, I had decided that the Inquiry should be divided into phases and I knew that most of the relatives, on whose behalf I had been concerned, would be giving their evidence during Phase One. Since I realised that considerations different from those on which I had based my earlier decision might arise after Phase One, I decided to invite representations from all those who might be affected by the broadcasting of the Inquiry.
- 3.24 The 102 relatives of known or suspected victims of Shipman whose views were submitted to the Inquiry, generally agreed with the reasons which I had advanced at the Opening Meeting for the refusal of my permission to broadcast Phase One. As a consequence, when I published my decision, on 11<sup>th</sup> June 2001, it was to the effect that there was to be no broadcasting of the Phase One hearings.
- 3.25 On 11<sup>th</sup> October 2001, I heard a further application by Cable News Network (CNN) for permission to film and broadcast the public hearings of the Inquiry. Although the application was couched in the form of a request for permission, CNN asserted a right to film and broadcast the Inquiry proceedings. In particular, it asserted a right by virtue of Article 10 of the European Convention on Human Rights ('the Convention').
- 3.26 CNN's application was opposed by the West Pennine Health Authority, the Greater Manchester Police and several individuals with an interest in the Inquiry, most of whom would be expected to give evidence in Phase Two. It was supported in part by the

Tameside Families Support Group, although they continued to oppose broadcasting of Phase One. Because the application raised an issue of general importance to all public inquiries, I permitted the Attorney General to appear by counsel. His representations were limited to the points of principle arising, particularly under Article 10(1) of the Convention.

- 3.27 Having heard the arguments, I held that Article 10 of the Convention did not guarantee a right to film the Inquiry, so that if the Inquiry were to be filmed, it would be done, not by right, but pursuant to my permission. So far as Phase One was concerned, I decided not to permit the filming or broadcasting of hearings. During the hearings in June and July, I had had the experience of seeing witnesses speaking about the deaths of their relatives and was aware of the distress which this frequently caused them. By October 2001, I was also aware that many of the remaining non-expert witnesses in the Phase One hearings would be extremely reluctant to attend to give evidence if they were to be subjected to the additional stress of the wider public exposure which would result from broadcasting. Accordingly, my decision not to permit the filming and broadcasting of the Phase One hearings remained unchanged. I did, however, grant permission to film and broadcast the first Stage of the Phase Two hearings.

## **The Oral Hearings**

- 3.28 The oral hearings were held in the Council Chamber at Manchester Town Hall. The Phase One hearings took place from 20<sup>th</sup> June to 24<sup>th</sup> July 2001, from 8<sup>th</sup> October to 10<sup>th</sup> December 2001, on 12<sup>th</sup> April 2002 (in a Committee Room) and on 2<sup>nd</sup> May 2002. During those periods, the Inquiry heard oral evidence relating to 65 deaths and one incident involving a living person, together with generic expert medical evidence relevant to Phase One issues. In addition, in the course of the hearings, evidence relating to a further 428 deaths, upon which I have made decisions without an oral hearing, was placed on the Inquiry's website and thus released into the public domain. The release of evidence in those cases was formally marked by Counsel to the Inquiry reading out the names of the deceased persons to whom the evidence related.
- 3.29 The evidence given in the course of oral hearings has been transcribed by stenographers, using the 'LiveNote' system, which enables a draft transcript of the evidence to be displayed on laptop computers at the Town Hall and the Inquiry offices a few seconds after the evidence has been given and revised transcripts to be available and to be posted on the Inquiry's website within hours of the conclusion of the day's hearings. In order to enable legal representatives to make full use of the various systems, the Inquiry has loaned laptop computers to those requiring them for the duration of the Inquiry. Documents received or referred to in evidence during the oral hearings, or otherwise related to the issues under discussion, were also posted on the Inquiry website. The website has been widely used. Up to April 2002, it had been 'visited' on average 225 times a day by more than 15,000 individual visitors; moreover, the Inquiry has received a number of communications from people wishing to comment on evidence which they had plainly been following with great attention by means of the website.

- 3.30 During the hearings, the Inquiry has used a document display system, 'TrialPro', by which documents scanned into the image database can be called up and displayed on three large screens situated at various points in the hearing chamber, as well as on smaller screens for the use of legal representatives, witnesses giving evidence, the media and, of course, myself. The advantage of the system is, first, that it enables everyone in the hearing chamber to see the document which is being discussed and thus greatly enhances the ability of the public to understand and follow the proceedings. Second, time is not wasted in searching for a relevant document among the many paper files that would otherwise be required; instead, the document can be called up and displayed in a matter of seconds.
- 3.31 As well as the screens used for the display of documents, a fourth large screen in the hearing chamber shows an image of the person speaking, whether that be a legal representative, witness or myself, the image being taken by voice-activated cameras situated at various points in the hearing chamber.
- 3.32 In order to enable people living in or near Hyde who had an interest in the Inquiry to follow its proceedings without having to travel into the centre of Manchester, the Inquiry provided a room in the public library at Hyde, to which the same images and documents as those displayed on the screens within the hearing chamber, together with the accompanying sound, were relayed. Apart from the first days of the oral hearings and a handful of occasions since, this facility has been little used and, at the conclusion of the hearings in December 2001, I indicated that, in order to save unnecessary expense, I was considering whether or not the facility should continue to be provided during the Phase Two hearings. A consultation exercise followed, after which I decided that the facility should be maintained until June 2002, after which the library, for reasons unconnected to the Inquiry, would no longer be available for use. I should then consider whether a transfer of the facility to another venue could be justified.
- 3.33 Within the Town Hall, media representatives have been provided with an annex, comprising a lobby and three rooms equipped with telephones, telephone points for computers, screens on which are displayed the documents and images currently being viewed in the hearing chamber, and documents and information relating to the oral hearings.
- 3.34 It has been the intention of the Inquiry, by means of the various arrangements described above, to make its proceedings as open and accessible as possible to members of the public with an interest in its proceedings. All the evidence upon which the findings set out in this First Report are based has been placed in the public domain by means of the website. The Inquiry is in every sense a 'public' inquiry.
- 3.35 It was recognised that not everyone with an interest in the Inquiry owns a computer or has the knowledge, inclination or opportunity to make use of computer facilities which are available for public use in libraries and other settings. Arrangements were, therefore, made for family members of deceased persons whose deaths were to be the subject of a decision, to attend the Town Hall or the Inquiry offices, where they were given the opportunity of reading the evidence relating to their relative's death from a paper copy or on a computer screen. Many families have availed themselves of this

service. Members of the Inquiry's witness liaison team were on hand on these occasions to answer, or refer to the Inquiry legal team, any queries raised by those who attended.

- 3.36 Also in attendance on those occasions were volunteers from Tameside Victim Support, who were available to give assistance to any family members who became distressed. Tameside Victim Support has provided invaluable support to witnesses and families throughout Phase One, both at the oral hearings and at all other stages of the Inquiry process, and I am most grateful to their manager, Mrs Helen Ogborn, and her staff and to all the volunteers who have fulfilled this important and sensitive role.

### **The Oral Evidence**

- 3.37 It would clearly have been impracticable for me to hear oral evidence relating to every one of the 494 cases in respect of which I have had to make a decision as to Shipman's guilt. It was, therefore, decided that I should hear oral evidence in a representative sample of cases, where it seemed that the evidence required clarification or where there was some other particular feature (for example, a link with another death) which made an oral hearing desirable.
- 3.38 In the course of the oral hearings, I heard evidence from 179 individuals in connection with 65 deaths and one other incident. The Inquiry team and I did all that we could to make the experience of giving evidence as easy as was possible in the circumstances. The family witnesses in particular received support and encouragement from members of their own families and friends, as well as from Tameside Victim Support. Nevertheless, as was inevitable, many found their attendance to give evidence a stressful and upsetting experience.
- 3.39 I wish to express my personal thanks to all those who gave evidence before me and who assisted me greatly in resolving the difficult issues which arose in some of the cases which I have had to decide.

### **The Expert Evidence**

- 3.40 The Inquiry obtained generic reports from two expert medical witnesses, Professor Henry McQuay and Dr John Grenville, both of whom attended (Dr Grenville on several occasions) to give oral evidence. The most important aspects of their evidence are summarised in Chapters Six and Seven. Professor Helen Whitwell, a forensic pathologist, gave written and oral evidence in connection with a number of individual deaths which had been followed by post-mortem examinations. Professor Kevin Park, Head of the Department of Pharmacology and Therapeutics at the University of Liverpool, advised the Inquiry in connection with a number of specific matters.
- 3.41 The Inquiry heard evidence from Professor Richard Baker, OBE MBBS MD FRCGP MRCP, Professor of Quality in Health Care and Director of the Health and Clinical Governance Research and Development Unit, Department of General Practice and Primary Care, University of Leicester, author of the review of Shipman's practice, which was commissioned by the Chief Medical Officer and published in January 2001. Dr Peter Goldblatt, PhD MSc BSc (Hons), Director, Health and Care Division, Office for

National Statistics and Chief Medical Statistician, who assisted with that review, also gave oral evidence. The main findings of the clinical audit are summarised and compared with my own findings in Chapter Fourteen.

### Shipman's Position

- 3.42 Shortly after the Inquiry started work, the Inquiry wrote to Shipman and to solicitors acting on his behalf, inviting him to contribute to the Inquiry. His solicitors replied that he did not wish to participate.
- 3.43 As an Inquiry established under the provisions of the Tribunals of Inquiry (Evidence) Act 1921, the Inquiry has the power to compel witnesses to attend to give evidence. Whilst that power has proved useful in persuading – and, in a very few cases, compelling – witnesses to attend the oral hearings, it would plainly not be effective in the case of Shipman. The ultimate penalty for non-compliance with a witness summons is imprisonment and, since the trial judge recommended that Shipman should remain in prison for the remainder of his life, the threat of imprisonment was unlikely to be effective in persuading him to attend and give evidence to the Inquiry.
- 3.44 Shipman's resolve to say nothing whatsoever about the allegations made against him was demonstrated in April 2001, when the police attempted to interview him in connection with their investigations into deaths in Todmorden and Hyde. Shipman turned his face to the wall and refused to respond to their questions. It is plain that he would not be prepared to say anything which would be of assistance to this Inquiry.
- 3.45 The Inquiry has sent to Shipman and his solicitors lists of the names of his former patients whose deaths are being investigated by the Inquiry. Thus, he has been afforded the opportunity to comment on the circumstances of those deaths. He has chosen not to do so.

### The Position of Mrs Shipman

- 3.46 Examination of the evidence showed that Mrs Shipman appeared to have some involvement in the circumstances surrounding two of the deaths and one incident being investigated by the Inquiry. The legal team, therefore, wished to call her to give oral evidence. She was initially unwilling to attend the Inquiry and a witness summons was served on her. Shortly before she was due to attend in response to the summons, I declined an application that she should give her evidence by video link or in private; in doing so, I was confident that the Inquiry would be able to ensure that, despite the intense media and public interest in her attendance, Mrs Shipman would be able to give her evidence in the same calm and orderly atmosphere which has generally prevailed in the hearing chamber; that, indeed, proved to be the case.
- 3.47 Mrs Shipman's evidence was given subject to an undertaking provided by the Attorney General that:

**'...no evidence she (*Mrs Shipman*) may give before the Inquiry (whether orally or by written statement) nor any written statement made**



**preparatory to giving evidence nor any documents produced by her to the Inquiry will be used in evidence against her or Harold Shipman in any criminal proceedings, except in proceedings where she is charged with having given false evidence in the course of this Inquiry or having conspired with or procured others to do so’.**

Such undertakings are, of course, not unusual in public inquiries where the giving of an undertaking will facilitate the functions of the inquiry in obtaining the fullest possible evidence.

- 3.48 I found Mrs Shipman to be an honest and straightforward witness. Before she came to give evidence, she was asked whether she had any documents in her possession relevant to the Inquiry’s investigations. She admitted that she had and delivered them up. They have been of great assistance to the Inquiry and have helped me to reach decisions on a number of individual deaths where, without them, I would have been unable to do so. Although Mrs Shipman might not have realised the potential importance of these documents and the extent to which they might damage her husband’s interests, I consider that a dishonest woman, whose only concern was to protect her husband, would have withheld or disposed of the documents and said that they had been destroyed long ago. In one of the cases about which she was asked in oral evidence (that of Mrs Irene Chapman), Mrs Shipman’s evidence was very damaging to her husband’s interests. The overwhelming impression which I formed of Mrs Shipman was that, whilst attending the Inquiry to give evidence was a great ordeal for her and she was understandably nervous, once in the hearing chamber, she did her very best to co-operate as fully as she was able.

## **Submissions**

- 3.49 In each case where there was no oral hearing of the evidence, Counsel to the Inquiry prepared a detailed summary of the evidence relating to the death, together with submissions as to the appropriate finding. The case summary and submissions were put into the public domain by placing them on the Inquiry website. Where the evidence was heard orally, brief written submissions as to the appropriate finding were prepared by Counsel to the Inquiry and made public in the same way. In most cases where family members of the deceased were legally represented, written submissions on the evidence were also made by their Counsel. In considering the evidence in each case, I took careful account of the submissions made by Counsel, but the final decision was, of course, mine alone.

