

CHAPTER SIX

The Approach to the Health Authority

Detective Inspector Smith Seeks the Medical Records

- 6.1 By midday on Thursday, 26th March 1998, Detective Inspector Smith had decided that it would be a good idea to obtain the medical records of Shipman's recently deceased patients. Somebody (he thinks the Coroner) had suggested this course of action to him. It is possible that this suggestion was made by the Coroner when Chief Superintendent Sykes spoke to him on 25th March. It is also possible that the Coroner made the suggestion to DI Smith himself during a telephone call on 26th March. DI Smith said that he spoke to the Coroner that day, as he had been instructed to keep him informed. The telephone records confirm a call from DI Smith's number to the coroner's office just after midday. However, Mr Pollard does not think DI Smith spoke to him that day and, in contrast with the other telephone conversations between these two, Mr Pollard has no note of such a call, so it is quite possible that DI Smith spoke to a member of the Coroner's staff. Moreover, Mr Pollard said that he would not have known where the medical records of deceased people were kept but thought that his staff might know. I think it likely that the idea of obtaining medical records came from the Coroner, either directly to DI Smith or indirectly through CS Sykes. I am also satisfied that, on 26th March, DI Smith learned (probably from a member of the Coroner's staff) that the medical records of deceased persons would be in the possession of the WPHA.
- 6.2 Shortly after his telephone call to the coroner's office, DI Smith telephoned Selbourne House, the Hyde office of the WPHA. He must have enquired about the procedure for obtaining the medical records of deceased patients. He was referred to Mrs Parkinson, who was then the Consumer Liaison Manager and was responsible for dealing with requests for access to medical records. DI Smith made an appointment to see Mrs Parkinson at 2.15pm that afternoon and noted the time and place on the right-hand page of his daybook: see Appendix A. I do not think that DI Smith had a very clear understanding of why it would be a good idea to obtain the records or what he would do with them when he got them.

The Relevant Health Authority Personnel

- 6.3 Before describing DI Smith's meeting with Mrs Parkinson, it is convenient to explain the functions of the various WPHA personnel who were to become involved with DI Smith's request. As Consumer Liaison Manager, Mrs Parkinson's main job was to receive complaints about doctors and other practitioners (such as opticians) involved in primary care. She was also responsible for handling requests for access to medical records. Her line manager was Dr Banks, then Assistant Director of Primary Care and Medical Adviser. He shared both these positions with Dr Frances Bradshaw. This arrangement had come about as the result of the amalgamation of two smaller health authorities. Although their responsibilities were theoretically coterminous, in practice they divided their duties. Dealing with requests for access to medical records was one of Dr Banks' responsibilities. Both Dr Banks and Dr Bradshaw worked from Selbourne House, Hyde. Their line

manager, Mrs Jan Forster, the Director of Primary Care, worked at the main office of the Health Authority, in Oldham.

- 6.4 At this time, there was in existence a draft local protocol, 'Access to Medical Records Procedures', defining the process by which requests for access to records should be handled and the criteria by which requests should be granted or refused. Although the protocol had not yet been fully approved, Mrs Parkinson was using it as a guideline and had its provisions in mind when she met DI Smith on 26th March. Mrs Parkinson made a contemporaneous note of her meeting with DI Smith. A facsimile of the note, together with other records made by her around this time, can be seen at Appendix C of this Report. Mrs Parkinson's evidence about the meeting owes its reliability largely to her note. DI Smith made no note and his evidence about the meeting is sketchy. In the event of any conflict or uncertainty, I prefer the evidence of Mrs Parkinson.

Detective Inspector Smith Meets Mrs Parkinson and Dr Bradshaw

- 6.5 Mrs Parkinson said that DI Smith wanted to know how to gain access to some deceased patients' records. He explained that he had been contacted by the Coroner as a result of concerns expressed by a local general practitioner, whose name was not divulged. This doctor was concerned about the number of cremation forms s/he had countersigned for Shipman. There had been 16 in three months. Mrs Parkinson knew of Shipman but did not know him personally. She knew of him first because he was her mother's general practitioner. Second, she had received a number of complaints from him about the record keeping standards of other general practitioners. This was an unusual type of complaint and she remembered it. Third, she knew of Shipman's reputation within the WPHA as a good doctor and knew also that he was a member of the Local Medical Committee, a statutory body that represents general practitioners in dealings with the Health Authority.
- 6.6 Mrs Parkinson said that DI Smith then told her that all 16 cremations had had similar features or circumstances. She listed these in her note. The deaths were all of elderly females; all had been found at their homes by Shipman who had apparently called on them unannounced; all had been found during the day and in their day clothes; all had been certified as having died from stroke or heart disease. DI Smith also told her that Shipman ran a scanner appeal and some of the 16 deceased patients had made donations to that appeal either before death or by will.
- 6.7 Although DI Smith had obtained the copy death certificates from the register office, the figures he quoted to Mrs Parkinson were those provided by Dr Reynolds and did not represent the content of the bundle of certificates. I infer that, at this time, he had not made a careful examination of the bundle. However, as will become apparent, he had put them into chronological order.
- 6.8 Mrs Parkinson asked if DI Smith had the consent of the next of kin or personal representatives of the deceased patients to see the medical records. If he had, the draft protocol would have permitted her to release the records, subject only to a check by Dr Banks to ensure that there was nothing particularly sensitive within them, which should

not be disclosed. DI Smith did not have such consent and explained why he would be unable to obtain it; the investigation was confidential and he could not approach the families.

- 6.9 Mrs Parkinson was worried by the serious nature of the enquiry and was anxious to assist DI Smith but did not know what to do. Even if DI Smith had provided a formal letter of request, the protocol would not have allowed her to release the records. She went in search of Dr Banks but he was not available. Dr Bradshaw was in the office and went with Mrs Parkinson to see DI Smith. The whole story was retold. During this second hearing, Mrs Parkinson realised fully that what was being suggested was that Shipman might be killing his patients. She was most concerned, as her mother and stepfather were both patients of Shipman and her mother had given money to his scanner appeal. She told DI Smith of her worries. She said that he seemed quite 'laid back' about it and told her not to worry. DI Smith agrees that he reassured her. He said he was in a difficult position, as he did not wish to create alarm, which might be unfounded.
- 6.10 Dr Bradshaw confirmed to DI Smith that, without the written consent of the next of kin or personal representatives of the deceased, he could not have access to the medical records. The position in law is most unsatisfactory. There is no power by which the police can obtain the release of medical records in the initial stages of a criminal investigation unless the patient or, if the patient has died, the next of kin consents to their disclosure. It appears that doctors sometimes exercise a discretion (which I do not think they have) to disclose records to the police without the consent of the patient or next of kin. Also, it appears that, in some areas, doctors and health authorities will accede to a letter of request from the coroner. However, the coroner has no power to order production or seizure of medical records, at that stage or at any time until inquest. This problem will be addressed in my Third Report.
- 6.11 There is some confusion about exactly what was said when it was realised that Mrs Parkinson could not release the records. The recollections of Dr Bradshaw, Mrs Parkinson and DI Smith differ and the point is not covered in Mrs Parkinson's note.
- 6.12 Dr Bradshaw said that, by the end of the meeting, it had been decided that the relevant medical records would be collected together and the request for release would then be put to Dr Banks for decision.
- 6.13 Mrs Parkinson said that it had been explained to DI Smith that the records could not be released. It was agreed that Dr Banks would be asked to examine the records himself to see if they revealed evidence that the deaths shared the common features and circumstances, identified by DI Smith, which had given rise to concern.
- 6.14 DI Smith said that Mrs Parkinson suggested that one of the two general practitioner advisers at Selbourne House might look at the records instead of him taking them away. He told Mrs Parkinson that he was content with this suggestion and that he would wish the doctor to see if the records provided any evidence to support the allegations being made. The salient features to be examined were whether or not Shipman was present at the death, whether the deceased were found in their day clothes and whether there was any evidence of them being killed or neglected. He said that, when he left the meeting, it had

been agreed that a doctor would examine the records in accordance with his wishes and would contact him when the job had been done. In his previous accounts, DI Smith had always maintained that he had asked that the doctor should examine the records to see if the cause of death was consistent with the treatment previously prescribed. When he gave oral evidence, his accounts varied. In general, he accepted that he had asked only that the doctor should search for signs of the common features that had given rise to concern. However, at other times, he maintained that what he had really wanted was that the doctor should examine the records for consistency between the cause of death and the previous treatment.

- 6.15 I am satisfied that, after a discussion of the problem, it was decided that either Dr Bradshaw or Mrs Parkinson would tell Dr Banks about DI Smith's request and, if Dr Banks were not prepared to agree to release the records themselves, he would be asked to examine them. In the mind of Mrs Parkinson, who was the person who did in fact speak to Dr Banks, the purpose for which Dr Banks would look at the records, if he agreed to do so, was to see whether there was any evidence in them of the common features which had given rise to concern.
- 6.16 Before the end of the meeting, Mrs Parkinson agreed to arrange for the relevant records to be collected together so that they could be shown to Dr Banks. DI Smith had with him the bundle of certificates from the Tameside register office. He gave Mrs Parkinson the names, addresses and dates of birth of 17 deceased patients of Shipman. That was the only information she would need in order to locate the records. She wrote the information down. The list of names can be seen at Appendix C. The names are listed in chronological order of death, although Mrs Parkinson did not write down the dates of death or the causes of death, as recorded on the certificates. DI Smith was adamant that he told Mrs Parkinson the cause of death in each case but I am quite satisfied that he did not. If he had done, she would have written down this information.
- 6.17 Mrs Parkinson warned DI Smith that the records of the patients who had died most recently might not yet have been returned to the Health Authority. She asked whether she should request Shipman's practice to return them immediately. DI Smith told her not to do so, as Shipman was not to be made aware of the investigation.
- 6.18 It will be noted that DI Smith did not include in the list he gave to Mrs Parkinson the names of Mr Harold Eddleston and Miss Maureen Ward. Nor, if he had it, as he claimed in oral evidence, did he give the name of Miss Ada Warburton. Before the hearings for this part of the Inquiry began, when DI Smith was contending that he received the certificates in two batches, he claimed that he omitted the names of Mr Eddleston and Miss Ward because he had not at that time received their copy death certificates from the register office. Later, he abandoned that explanation and suggested another reason for their omission. In oral evidence, he suggested that he omitted them because those two deaths were certified by Shipman as having been due to cancer; therefore, because they were not said to be due to coronary thrombosis or stroke, it could be seen without further examination that they did not conform to the pattern of suspicious deaths. However, some of the other deaths for which he obtained the records had other causes; for example, Mrs Elizabeth Battersby was said to have died of a pulmonary embolism, Mrs Bertha Parr of 'natural causes' and Mrs Cissie Davies of bronchopneumonia.

- 6.19 I am unable to reach a clear conclusion about why DI Smith omitted to mention the names of Mr Eddleston and Miss Ward and to seek advice about their medical records at this stage. Neither of the two possible explanations is entirely satisfactory. I do not think DI Smith received the copy death certificates in two batches; I think he received them all on his second visit to the register office. He could not identify another visit or any other means by which they had been conveyed to him. I think the second explanation is the more plausible. I think DI Smith believed that he was only expected to investigate deaths that clearly conformed to the pattern of suspicious deaths. It may be that he had got hold of the idea that only deaths certified as due to stroke or coronary thrombosis were suspicious; or it is possible that he thought that deaths due to cancer sounded 'natural' and should be excluded from his enquiry. In the event, the records of Mr Eddleston did come to the attention of Dr Banks, although not at the time when he considered the first tranche of records. How and why they did so remains something of a puzzle.
- 6.20 DI Smith also suggested, in oral evidence, that he had omitted the name of Miss Warburton from the list he gave to Mrs Parkinson because her death was so recent that the records were unlikely to be available. However, Miss Warburton died only a few days after Mrs Dorothy Long and Mrs Lily Higgins, whose names he included. DI Smith claimed that he had discussed with Mrs Parkinson and Dr Bradshaw which sets of records should be sought and they had suggested that those of Mrs Long and Mrs Higgins might be available but those of Miss Warburton would not. Mrs Parkinson could not recall any such conversation and Dr Bradshaw said that she was not present when the list was compiled. I do not think that any such conversation took place.

The Records Are Put Before Dr Banks

- 6.21 After DI Smith had left, Mrs Parkinson asked a colleague to collect the medical records together for her and she then kept them in a locked cabinet before passing them on to Dr Banks. Only 14 sets were found. The records for Mrs Margaret Waldron, Mrs Long and Mrs Higgins (who had died on 6th, 13th and 17th March 1998 respectively) were still with Shipman and were not available for examination.
- 6.22 When Dr Banks returned to the Hyde office later that afternoon, Mrs Parkinson told him about DI Smith's visit and request. Neither of them took a note of that conversation and neither has a clear recollection of what was said. Mrs Parkinson showed Dr Banks her note of the meeting with DI Smith and told him what had transpired. I am satisfied that Dr Banks agreed that release of the records was not possible without the consent of relatives or personal representatives. I am also satisfied that Mrs Parkinson said that DI Smith would be content not to pursue his request for access to the records if Dr Banks would look at them to see if they contained evidence of the common features.
- 6.23 It is clear that Dr Banks agreed to examine the 14 sets of records. He decided to do so without discussing the wisdom of taking this course with Mrs Forster, his line manager, or with Dr Ellis Friedman, Director of Public Health Medicine for the WPHA. I will return in due course to consider whether he should have consulted either or both of those persons. Dr Banks undertook the task without requiring DI Smith to make a formal written request and without speaking to DI Smith directly to ensure that he had a full understanding of what

was required. Dr Banks claimed, at one stage, that he had asked Mrs Parkinson to find out exactly what the police wanted. However, he was not certain of this and there is no record of a telephone call from Selbourne House to the police. Nor did Mrs Parkinson make a note of any such request from Dr Banks or of its outcome. In my view, it is most unlikely that Dr Banks sought any clarification of his task.