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National Post

# NEWS

## Tribunal revokes licence of discredited pathologist Charles Smith

Tom Blackwell Feb 1, 2011 – 1:50 PM ET | Last Updated: Feb 1, 2011 10:27 PM ET



Peter Redman / National Post

The victims of Dr. Charles Smith have lived experiences that are difficult to fathom. Accused falsely of killing their children or close relatives based on the pathologist's misguided evidence, they have risked death in prison, faced the ugliest of name calling and been torn away from their surviving children.

"You took it upon yourself to destroy my life," said one, Brenda Waudby, in a victim-impact statement. "You have no idea what it is like to walk down a street and be called a child killer."

On Tuesday, Dr. Smith himself faced punishment for the first time, as the discipline committee of Ontario's medical regulator revoked his licence and ordered him to appear before the panel in March to be publicly rebuked for his string of flawed child-death investigations. He was also directed to pay \$3,600 to cover costs of the one-day hearing.

For those whose lives he unnecessarily ripped apart, however, the College of Physicians and Surgeons sentence simply did not seem to fit the wrongdoing.

"He got a slap on the wrist," said William Mullins-Johnson, who was awarded \$4-million in compensation by the province of Ontario last year after being convicted wrongly of murdering his four-year-old niece — and spending 12 years behind bars.

"As far as I'm concerned, that's a spit in the face of myself and the public of this province.... This was just to show that the College did something. It wasn't much."

Mr. Mullins-Johnson, who attended Tuesday's proceedings with several others similarly affected by Dr. Smith's actions, argued the only appropriate censure would be criminal charges of obstruction and perjury.

The College hearing was just the latest fallout of Dr. Smith's troubled investigations of child deaths, which have already been condemned by a judicial inquiry and continue to reverberate through the province's justice system.

Now reportedly living in Victoria, B.C., Dr. Smith was considered a leading expert on pediatric forensic pathology from the 1980s to 2001. But he was found later to have made errors in 20 investigations, the majority of which led to criminal charges against parents or other caregivers. In most cases, they have since been cleared of wrongdoing.

In fact, though he presented himself as a forensic pathologist, he had no training as one. The pathologist did not attend the hearing Tuesday but, through his lawyer, Jane Langford, pleaded "no contest" to charges of professional misconduct and incompetence.

He also agreed to a statement of facts that set out a litany of wrongdoing, such as failing to adequately investigate cases, voicing opinions not backed up by the pathological evidence and referring to aspects of the social history of parents or caregivers that were irrelevant to the pathology.

He often exaggerated his credentials and gave evidence that was "overly dogmatic" and unbalanced, said the statement read aloud by a College lawyer.

The discipline committee said the offences called for the most severe penalty it could hand out, although revoking his "certificate of registration" turned out to be somewhat moot. Dr. Smith has not had an active licence in Ontario since 2008. The panel ordered him to appear March 25 to receive the official reprimand, but it is unclear what, if any, power the committee has to compel him to do so.

Mr. Mullins-Johnson called him "cowardly" for not attending Tuesday. In their victim-impact statements, those who were prosecuted partly based on Dr. Smith's evidence spoke of deep, long-lasting effects of the nightmarish experience.

"I have suffered from almost 20 years of depression. I have not been able to find steady work. I am living below the standard of living," said an individual identified only as CM.

Dinesh Kumar, whose conviction in the 1992 death of his infant son, Gaurov, was just overturned last month, said the experience ruined his dreams of a large family.

"My wife and I, who longed to have more children, decided against it because we could no longer trust that this horror would not be repeated."

Mr. Mullins-Johnson said in his statement that he faced daily death threats while in prison and, despite his acquittal, is still listed as a sex offender by children's aid societies.

Maria Shepherd, who is expecting a date with the Court of Appeal soon to try to have her manslaughter conviction overturned, spoke publicly for the first time. She said she had hoped Dr. Smith could explain why her step-daughter, Kassandra, had been ill for so long before her 1991 death, only to have the pathologist finger her as the culprit.

Another specialist later found evidence suggesting the baby died of natural causes, possibly epilepsy.

"Charles Smith is a disgrace to the medical profession and to humanity itself," she said.

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## College strips disgraced Ontario pathologist Smith of licence

BY LINDA NGUYEN, POSTMEDIA NEWS FEBRUARY 1, 2011



Dr. Charles Smith waits to begin testimony at a inquiry investigating his discredited child-death investigations in Toronto, Monday January 28, 2008.

Ontario's medical regulatory body stripped disgraced pathologist Charles Smith of his licence Tuesday for incompetence and professional misconduct, but victims who were charged or sent to prison largely based on his botched child autopsies say the sanctions were a "slap on the wrist" for the once-renowned doctor.

"It wasn't much," said William Mullins-Johnson following the disciplinary hearing at Ontario's College of Physicians and Surgeons. "It was what I thought it was going to be: a slap on the wrist, a pat on the head and (he was) told to be on his way."

In 1994, Mullins-Johnson was wrongly convicted in Sault Ste. Marie, Ont., of first-degree murder and sexual assault in the death of his four-year-old niece, Valin Johnson. He spent 12 years in prison, largely due to faulty testimony provided by Smith and two other doctors. His conviction was overturned in 2007, and he was awarded a \$4.5-million settlement by the Ontario government.

Smith was once regarded as the leading Canadian expert in pediatric forensics, but has since been blamed for providing inaccurate evidence at dozens of child murder trials, resulting in a number of innocent people going to prison. A number of those convictions have been overturned by the Ontario Court of Appeal.

In 2007, the Ontario chief coroner launched a two-year probe into Smith's work and found major problems with 20 of the 44 autopsies the former doctor performed. Twelve of those cases resulted in charges or convictions.

The review also found that in most of the cases, caregivers or parents were blamed for the deaths when the causes were more likely accidents or natural causes. A public inquiry resulting in a damning, 1,000-page report by Justice Stephen Goudge was also released in 2008.

Smith has since apologized for making the errors and stated that they were unintentional. He is reportedly living in Victoria and was unreachable Tuesday.

Smith had stopped practising medicine in 2008, when his medical licence expired.

At the disciplinary hearing, a five-person panel also ordered Smith to pay a \$3,650 fine to the college within 60 days. It would not comment on how it agreed to that figure when the maximum fine the college can impose is \$35,000.

Smith was also ordered to appear on March 25 to publicly accept his reprimands. The college will also contact jurisdictions around the world and notify them of these hearings.

The sentence is the "most serious sanctions this college can impose," said lawyer Carolyn Silver.

She added that Smith's conduct was the "most egregious breach" of medical standard and a "shocking departure" of professional misconduct.

"These failures compromised the administration of justice," Silver said.

The college also said the reprimands took into account the "multitude and span of the misconduct" and the fact that his incompetence was repeated in multiple cases. It also acknowledged that because Smith, who was not present at the half-day hearing, prevented the hearing from dragging on for weeks or months by pleading "no contest" to the charges through a lawyer.

He was not present Tuesday.

The panel was read an agreed statement of facts, which summarized how Smith failed to gather proper information during hundreds of criminally suspicious child autopsies from 1981 to 2001.

He also agreed that he had no formal accreditation in forensic pathology or formal forensic training.

"He gave his evidence in a manner that was misleading, overly casual, unfairly critical of other experts or unscientific," according to the document. "In other cases, he acted as an advocate rather than expressing an unbiased opinion."

More than a dozen people who were wrongly charged or imprisoned due in part to Smith's testimony were also present at the hearing. Six victim impact statements were read aloud.

Maria Shepherd, 40, held the hands of her two teenage children, Jordan and Chelsea, and openly cried as her anguish was read into evidence.

"Charles Smith is a disgrace to the medical profession and to humanity itself," she wrote.

"I do want Charles Smith to know that he was never God, never will be God, but rather that he will meet God one day as he so wishes."

In 1991, Shepherd felt "extreme pressure" to plead guilty to manslaughter in the death of her stepdaughter, three-year-old Cassandra. Smith had said that a tissue bruise under the child's skull had resulted in fatal trauma. According to documents filed in court, Smith asked police to find an object of similar size and shape, and they came back with Shepherd's wristwatch.

Shepherd, who was 21 at the time, spent two years less a day in prison and was on probation for three years. Her case is set to be heard at the Ontario Court of Appeal.

The experience, she said, forever changed her life, and she wants to see Smith go to prison.

"So Charles Smith, if this ever gets you, I don't hate you. I forgive you, but I will never forget what you did to me," she said outside the hearing. "I will never forget all that you did to my friends and family but I do hope one day that the Crown and police find you accountable criminally for all you've done."

Dinesh Kumar, who was exonerated last week of killing his newborn son, also was present at the hearing, along with 38-year-old Tammy Marquardt, who was sent to prison for 14 years for the murder of her daughter. Her appeal will be heard in court next week.

A spokesman with Ontario's attorney general would not comment on Smith.

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# Panel delivers harsh reprimand to doctor

## Disgraced pathologist not there to hear it

BY LINDA NGUYEN, POSTMEDIA NEWS MARCH 26, 2011



Dr. Charles Smith was rebuked by a medical panel Friday.

**Photograph by:** Tyler Anderson, National Post, Postmedia News

A panel of Ontario's medical regulatory body did not mince words Friday when it delivered a harsh statement at a reprimand hearing for disgraced pathologist Charles Smith.

"Your transgressions were egregious in nature, repulsive in result, caused irreparable harm to many innocent victims," Dr. Marc Gable read on behalf of the five-person panel of the College of Physicians and Surgeons of Ontario.

Last month, the college found Smith committed acts of professional misconduct and declared him incompetent. He was stripped of his medical licence in Ontario and fined him \$3,650 to be paid within 60 days.

The panel also ordered Smith, who is reportedly living in Victoria, B.C., to appear Friday to hear his public reprimand. He did not show up, nor did his lawyer.

Revoking a medical licence is the "most severe penalty" the college can deliver and the panel expressed disappointment that Smith did not show up.

In detailing Smith's failings, the panel said he acted as an advocate rather than supply unbiased opinions based on pathology evidence, he gave testimony at trials based on erroneous evidence and offered opinions that were "unscientific, speculative (and) unsustainable" on pathology findings.

During the 1980s and '90s, Smith was regarded as the leading Canadian expert in the field of child pathology. He testified at hundreds of cases without any formal accreditation in forensic pathology or formal forensic training.

He has since been blamed for providing inaccurate evidence at dozens of child-murder trials, resulting in innocent people going to prison. A number of those convictions have been overturned by the Ontario Court of Appeal.

In 2007, the Ontario chief coroner launched a two-year probe into Smith's work and found major problems with 20 of the 44 autopsies the former doctor performed. Twelve of those cases had resulted in charges or convictions.

The review also found that in most of the cases, caregivers or parents were blamed for the deaths when the causes were more likely accidents or natural causes.

Smith has since apologized for making the errors and stated that they were unintentional.

The college said it has notified jurisdictions throughout North America and worldwide about Smith.

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## Panel calls actions of disgraced pathologist Charles Smith 'egregious . . . repulsive'

BY LINDA NGUYEN, POSTMEDIA NEWS MARCH 25, 2011



The College of Physicians and Surgeons of Ontario delivered a stinging rebuke to disgraced pathologist Charles Smith Friday, calling his errors that led to criminal convictions against parents in the deaths of their children "egregious in nature (and) repulsive in result."

**Photograph by:** National Post, National Post

TORONTO — Ontario's medical regulatory body delivered a stinging rebuke Friday to disgraced pathologist Charles Smith, whose faulty expert testimony led to dozens of people being wrongly charged or convicted for killing children.

"Your transgressions were egregious in nature, repulsive in result (and) caused irreparable harm to many innocent victims," Dr. Marc Gable read on behalf of a five-person panel of the College of Physicians and Surgeons of Ontario.

Through the 1980s to 2001, Smith was regarded as the leading expert in pediatric forensic pathology in Canada. He testified at hundreds of cases without any formal accreditation in forensic pathology or formal forensic training. Smith also performed an estimated 1,000 child autopsies during his 24 years working at Toronto's Hospital for Sick Children.

He has since been blamed for providing inaccurate evidence at dozens of child-murder trials, resulting in innocent people going to prison. A number of those convictions have been overturned by the Ontario Court of Appeal.

Last month, the college concluded that Smith — who did not attend the hearing — committed acts of professional misconduct and declared him incompetent. He was stripped of his Ontario medical licence and fined \$3,650, to be paid within 60 days.

The panel also ordered Smith, who reportedly is living in Victoria, B.C., to appear Friday to hear his public reprimand. He did not show up, nor did his lawyer.

Revoking a medical licence is the "most severe penalty" the college can deliver and the panel expressed disappointment that Smith did not appear in person to accept it.

"From the very beginning of our medical education we learned the principle of 'Primum non nocere' — first of all, do no harm. No matter what we learned thereafter, that remained the basic foundation governing our practice," said Gable. "(Smith) clearly ignored this fundamental principle."

Among Smith's failings, the panel said he expressed "erroneous opinions" that were not based on evidence, acted as an advocate instead of supplying unbiased testimony and testified on the social histories of caregivers which were irrelevant to the case.

The panel also pointed out he tried to "unfairly shift" the blame for these mistakes onto others.

In 2007, the Ontario chief coroner launched a two-year probe into Smith's work and found major problems with 20 of the 44 autopsies the former doctor performed. Twelve of those cases resulted in charges or convictions.

The review also found that in most of the cases, caregivers or parents were blamed for the deaths when the causes were more likely accidents or natural causes.

A public inquiry ended with the release of a damning, 1,000-page report by Justice Stephen Goudge in 2008.

Smith has since apologized for the errors and stated that they were unintentional.

Tammy Marquardt spent 14 years in prison for the death of her toddler son largely based on the testimony of Smith. She said Friday she wanted to look him in the eye for the pain he caused her.

"We all knew he wasn't going to show," said Marquardt. "He's not man enough to stand up and take what's due to him."

Marquardt was convicted of second-degree murder in 1995 for the death of her 2 1/2-year-old son, Kenneth Wynne. She was sentenced to life in prison with no possibility of parole for 10 years.

Smith had testified that the toddler died from "asphyxia," a statement which has since been shown to be not based on any evidence.

Marquardt has always maintained her innocence. In February 2009, she appealed her conviction to the Supreme Court of Canada, which sent it to the provincial appeals court. She was released from prison pending the outcome.

Last month, the Ontario court quashed her conviction and is now reviewing whether it will launch a new trial.

"It hasn't changed; I still want to know why," she said. "That's the question I have for that man."

Marquardt, who had two sons put into the foster care system following her conviction, said she's still looking for them. She blames Smith for ruining her life.

"Personally, I'd like to see him to go jail, at least feel a little bit of what we felt: fear for your life on a daily basis," Marquardt said. "Live your life on a constant fight-or-flight and tell me how your body's going to hold up to that."

The Ontario Attorney General said it would be up to the police to determine whether criminal charges should be laid against the discredited doctor.

Ontario Provincial Police Insp. Dave Ross said the criminal investigation into Smith was closed following the public inquiry when it was determined that no charges were going to be laid. According to the police, it would be difficult to convict Smith for either perjury or obstruction of justice because the Crown would have to prove that the testimony he gave was intentionally incorrect.

The college said it has notified jurisdictions throughout North America and worldwide about Smith. He is eligible to reapply for his medical licence within a year, but a college spokeswoman said such an application would likely fail.

The college had been notified late Thursday that Smith would not attend the hearing.

"A physician cannot be compelled to attend for the reprimand but, in practice, most physicians do appear before the discipline panel," said Kathryn Clarke, a spokeswoman for the organization.

Last October, the Ontario attorney general announced a \$4.25-million award for William Mullins-Johnson, who was wrongly convicted in 1994 of murdering his four-year-old niece, Valin Johnson, partly based on Smith's testimony.

According to the provincial government, it has paid \$5.5 million in compensation to nearly 30 people wrongly charged or convicted based on Smith's faulty evidence.

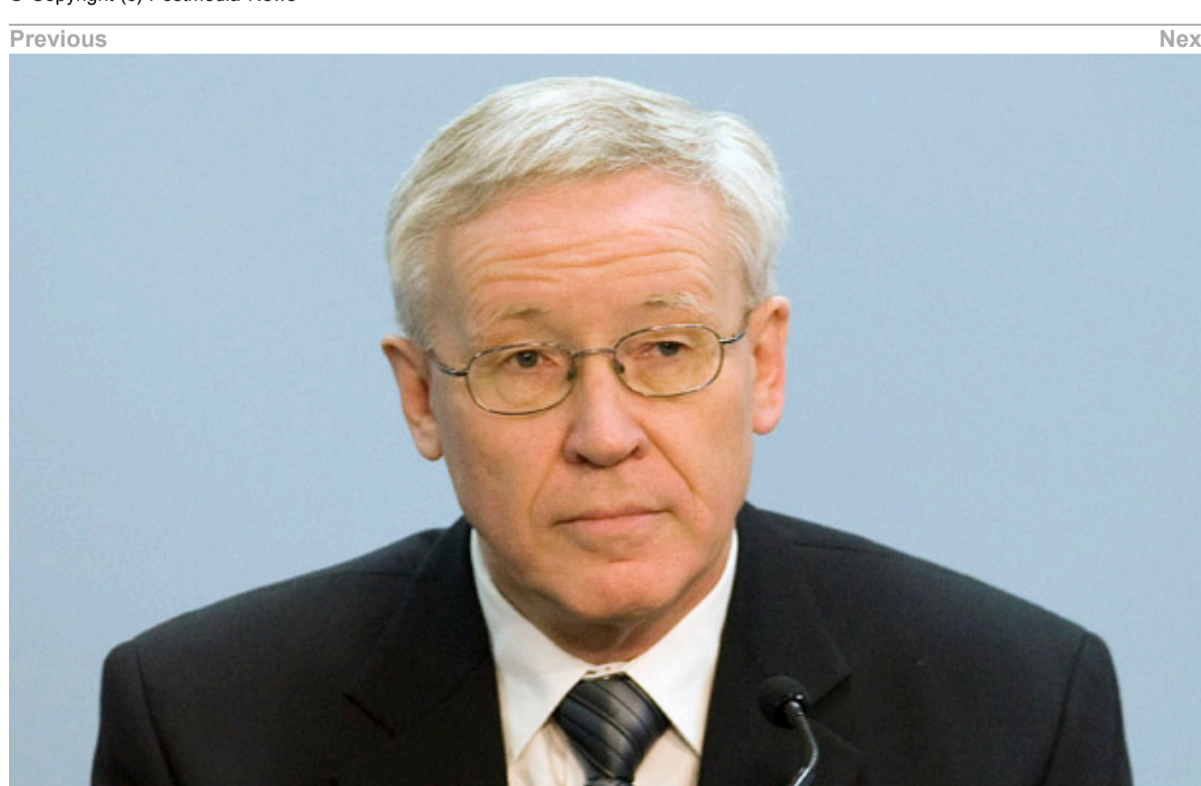
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The College of Physicians and Surgeons of Ontario delivered a stinging rebuke to disgraced pathologist Charles Smith Friday, calling his errors that led to criminal convictions against parents in the deaths of their children "egregious in nature (and) repulsive in result."

**Photograph by:** National Post, National Post



## Disgraced pathologist Charles Smith won't attend reprimand



Tyler Anderson/National Post Files

**Tom Blackwell, National Post** · Mar. 25, 2011 | Last Updated: Mar. 25, 2011 8:01 AM ET

It is the culmination of the only punishment he is ever likely to face, but Dr. Charles Smith will not show up Friday when Ontario's medical regulator rebukes him publicly for flawed child-death investigations that shattered numerous lives.

The College of Physicians and Surgeons was advised Thursday that the defrocked and discredited pathologist has no plans to attend the hearing in Toronto this morning where his formal reprimand is scheduled to take place, said Kathryn Clarke, a spokes-woman for the organization.

"A physician cannot be compelled to attend for the reprimand but, in practice, most physicians do appear before the discipline panel," she said.

Despite Dr. Smith's no-show, the panel will likely go ahead and read the statement into the record anyway, said Ms. Clarke.

Dr. Smith was last in the public spotlight during the judicial inquiry into the affair in 2008, which detailed how his mistaken conclusions and faulty testimony had contributed to several people being wrongly convicted for child deaths.

He failed to appear when the college held a one-day disciplinary hearing into his case last month, deciding to strip his medical licence and deliver the reprimand.

None of the individuals whose lives have been torn apart by his actions could be reached Thursday evening, but at the session last month, several submitted victim-impact statements.

Tammy Marquardt, whose murder conviction was overturned last month, said losing her two-year-old son, Kenneth, was "unimaginable," but to be labelled his killer partly because of Dr. Smith was like torture.

"I have suffered deep bouts of depression, anger, bitterness and I often wondered if I would ever be able to find the joy and laughter I once knew as a young mother," she said.

Jane Langford, Dr. Smith's Toronto lawyer, could not be reached for comment.

Now reportedly living in Victoria, Dr. Smith was considered a leading expert on pediatric forensic pathology -representing the Chief Coroner's Office -from the 1980s to 2001. But he was found later to have made errors or delivered inaccurate or inflammatory testimony in 20 death investigations, the majority of which led to criminal charges against parents or other caregivers. In most cases, they have since been cleared of wrongdoing.

The inquiry by Justice Stephen Goudge condemned his work as flawed and irresponsible, but was principally mandated to address systemic problems, and barred from formally assigning blame. That left the college, which regulates Ontario's physicians, as likely the last opportunity to censure him officially.

As well as removing his licence, the body charged him \$3,600 in costs, though it chose not to allot an actual fine.

The province announced last year \$4.2-million in compensation for William Mullins-Johnson, who spent 12 years in prison after being wrongly convicted of murdering his niece, in part because of Dr. Smith's testimony. The government has also paid out \$1.35-million to 28 other individuals under a separate program designed to compensate people wrongly prosecuted, and surviving children harmed by the situation.

"Although anger and resentment are evident in my letter, I do want Charles Smith to know that he was never God, never will be God, but rather that he will meet God one day as he so wishes," wrote Maria Shepherd in her victim-impact statement.

Ms. Shepherd pleaded guilty in 1992 to manslaughter in connection with the death of her three-year-old stepdaughter. She has since appealed the conviction in light of new evidence exposing Dr. Smith's work in the case as "complete nonsense."

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# Top officials allegedly blocked complaints against pathologist

Last Updated: Tuesday, May 1, 2007 | 3:07 PM ET

[CBC News](#)

Ontario's chief coroner at the time may have blocked efforts to investigate the work of Dr. Charles Smith, a Toronto child pathologist now accused of making errors in 20 criminal cases.

CBC News has learned Dr. James Young, the province's former chief coroner, tried to stop the investigation of complaints against Smith a decade ago.

The Ontario government announced April 20 it would hold a full public inquiry into Smith's work after a review panel found he had erred in 20 of 45 cases of child deaths about which he testified in court between 1991 and 2000. Thirteen of those cases resulted in criminal convictions. One person remains behind bars.

Ontario Attorney General Michael Bryant said the inquiry could look into allegations government officials were protecting Smith. Bryant said he can't order Justice Steven Goudge to look into a specific allegation but it does fall within the mandate of the inquiry.

Maurice Gagnon said he made a complaint about Smith's evidence to Young, then chief coroner, after Gagnon's daughter was implicated in the death of her son in 1995. While police never laid charges, Gagnon says the accusation left his family psychologically devastated.

Gagnon said Young dismissed his concerns so he went to the Ontario College of Physicians and Surgeons. He soon learned Young had intervened and told the college it didn't have the jurisdiction to investigate because Smith worked for the coroner's office.

"He was protecting his own people. He had circled the wagons and it was obvious he wasn't prepared to hold them accountable for any misdeed," Gagnon told CBC Radio.

"There was just no avenue to put in a complaint against these people. They could do what they wanted. They were their own police."

Gagnon wasn't alone. Other complaints from people who were wrongly accused in the 1990s were starting to come in but it wasn't until 2001 that the chief coroner's office announced a review of Smith's work. The officials at the coroner's office declared Smith competent but details of the review were never made public.

The College of Physicians and Surgeons was eventually forced to hear complaints against Smith and in 2002, it reprimanded him.

David Bayliss, of the Association in Defence of the Wrongly Convicted, wonders why it took so long for the complaints to be dealt with — nine years after the first one was filed.

"Mistakes were made. The question then becomes: Why weren't those mistakes caught by an earlier review? Was it a legitimate review or was it a cover up? That's the question."

Bayliss says he hopes the public inquiry gets to the bottom of who knew what and when.

The inquiry's report is expected within a year.



Dr. Charles Smith, seen in this undated photo, is at the centre of an inquiry into 20 child autopsies done between 1991 and 2000. (CBC)