

Koch Removes Baden as the City's Medical Examiner

By RICHARD SEVERO

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Mayor Koch, apparently responding to complaints received from one of the city's five District Attorneys and from the Health Commissioner, announced yesterday that he would not make permanent the appointment of Dr. Michael M. Baden as Chief Medical Examiner.

Dr. Baden was appointed provisionally a year ago and the appointment would

Charges and rebuttals, page A15.

have become permanent yesterday, making the job his until he retired from it. He will now revert to deputy chief medical examiner.

In a news conference at City Hall, the Mayor declined to discuss specific charges, saying that "the entire record is what's important — I base my decision upon the entire record."

The complainants against Dr. Baden were Robert M. Morgenthau, District Attorney of Manhattan, and Dr. Reinaldo A. Ferrer, the Health Commissioner.

Their criticisms were contained in letters sent to the Mayor after he had requested evaluations of Dr. Baden's work from the District Attorneys. Dr. Ferrer's comments were not sought but he volunteered them.

Mr. Morgenthau and Dr. Ferrer generally charged Dr. Baden with sloppy record-keeping, poor judgment and a lack of cooperation. Dr. Baden denied the charges. Their accusations are in strik-

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ing contrast to the praise given Dr. Baden by the other District Attorneys.

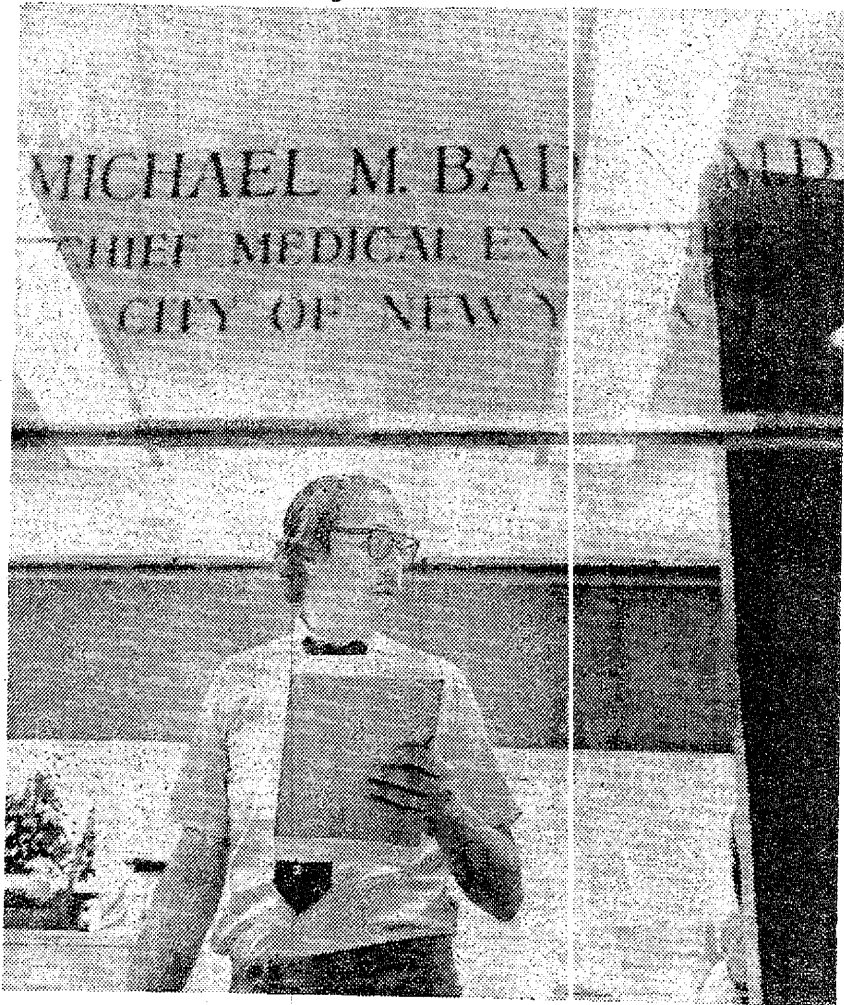
The charges also contrast with a letter written to the Mayor last April 11 by Dr. Ferrer, in which he said "some remarkable accomplishments" had been made in improving "the administrative structure and managerial procedures of the office."

In a two-and-a-half page letter dated July 13, Dr. Ferrer charged, among other things, that last Feb. 3 Dr. Baden spoke at grand rounds at Lenox Hill Hospital and presented "details not previously presented in such fashion as to indicate" that Governor Rockefeller "had died during sexual intercourse."

A spokesman for Lenox Hill said yesterday that Dr. Baden had appeared there for a staff conference, not grand rounds, that the date was Feb. 9, not Feb. 3, and that in the minutes taken during the meeting, there is no mention of Dr. Baden's saying the things Dr. Ferrer alleges.

Complaint on Miller Case

Other criticisms by Dr. Ferrer include an allegation that Dr. Baden "issued a report on the evening of June 14, 1979, prematurely and without sufficient data"



The New York Times/Neal Boenzi

Dr. Michael M. Baden at his offices yesterday in Manhattan

on the death of Arthur Miller, a black businessman from the Crown Heights section of Brooklyn. Mr. Miller was killed in a scuffle with the police in June of 1978, not 1979. Dr. Ferrer says Dr. Baden later changed his report.

Dr. Baden denies this. "Mr. Miller was killed in an altercation with the police," Dr. Baden said yesterday. "That's the only way we have ever described his death."

Mr. Morgenthau's complaints cover five pages, single-spaced. In his letter, dated July 12, he said that "dissatisfaction with the Medical Examiner's office in general and with Dr. Baden in specific is very widespread among the assistant district attorneys who handle homicide cases."

He listed three cases that he said had not been properly handled by Dr. Baden's office.

In one of them, the People v. Levine, the defendant was indicted for a killing. Mr. Morgenthau said the Medical Examiner's office lost the dead woman's fin-

gernail clippings (needed to determine if she scratched her assailant), a blood-stained dress, a knife and a telephone cord.

'Distorted Advocacy'

In a 15-page response to Mr. Morgenthau's charges, Dr. Baden called them "a masterpiece of distorted advocacy." He said that the body had been received nude and that the police had kept the articles. He said the fingernail clippings were discarded only after the assistant who inspected them "saw no value in studying them further."

Mr. Morgenthau also said that Dr. Baden was not scrupulous about returning telephone calls promptly and had not been available to work with members of the District Attorney's staff to prepare cases for trial.

In his explanation to the Mayor, Dr. Baden complained that Mr. Morgenthau "has been wholly insensitive to the problems his reorganization of his office has created although these have been brought to his attention."

The letters written about Dr. Baden by the other District Attorneys — Mario Merola of the Bronx, John J. Santucci of Queens, Thomas R. Sullivan of Staten Island and Eugene Gold of Brooklyn — seemed to be describing an individual and an office totally different from that emerging from Mr. Morgenthau's letter.

Merola Praises Baden

On July 10, Mr. Merola described Dr. Baden as "thoroughly professional" and a physician who continues to "express his professional medical opinion candidly and forthrightly." Mr. Merola added that "public service in so vital an area needs a doctor of high caliber for this position. Dr. Baden is such a man."

Mr. Santucci called Dr. Baden "competent and most cooperative" and Mr. Gold described him as "cooperative and sensitive to our needs." Mr. Sullivan also used the phrase "most cooperative." None of the other District Attorneys had anything negative to say about Dr. Baden.

Indeed, in a letter written to Dr. Baden directly, but not sent to the Mayor, even Mr. Morgenthau had praise.

In a brief note dated last June 26, Mr.

Morgenthau thanked Dr. Baden for his participation in the Trial Advocacy Program conducted by Mr. Morgenthau's office.

"Please accept my thanks," the letter began. "Your demonstration was one of the most successful demonstrations of the entire program and we received many favorable comments from the prosecutors participating in the program. I would also like to thank you for your assistance in providing Associate and Deputy Medical Examiners to testify in the simulated trials."

He added that he was "certain that your office will see the results of this training when the prosecutors participating in our program try their first homicide cases."

At a news conference at the Medical Examiner's office at 520 Fifth Avenue, Dr. Baden said, "Even if these charges were true, which they are not, they would hardly justify removing me."

The news brought expressions of concern and support from his staff, which quickly prepared a petition and delivered it to the Mayor's office, and from former members of the Manhattan District Attorney's staff and from others who have worked with Dr. Baden.

Robert Lehner, former chief of the Homicide Bureau who is now with the Department of Justice in Miami, called Dr. Baden "one of the most outstanding pathologists I've ever known."

Dr. Baden's demotion was called an "outrage" by Robert Tanenbaum, former chief of the Criminal Court Bureau for the Manhattan District Attorney. More recently, he has been counsel for the House Select Committee on Assassinations, which has investigated the slayings of both President Kennedy and Dr. Martin Luther King Jr. Dr. Baden served on that committee as pathologist.

"I think it is a terrible tragedy and I would like to know the real reason," Mr. Tanenbaum said. "He is too independent, that's the only slam on the guy. He cannot be leaned on and he has tremendous integrity. And so in the mentality of the New York establishment, he can't be trusted."