

An Autopsy on the Dismissal Of the Medical Examiner

By RICHARD SEVERO

Last Monday evening, Dr. Kevin Cahill, Governor Carey's special assistant for health affairs, was having a chat in Manhattan with Mayor Koch and remarked that he was impressed with the work of Dr. Michael Baden, the city's acting Chief Medical Examiner. Dr. Cahill praised Dr. Baden as "absolutely first rate," he confirmed later.

The Mayor reportedly responded, "Too bad, because I've already made the decision to fire him." At a City Hall press conference the next day, the Mayor made it public: The provisional appointment of Dr. Baden would not be made permanent and the city would move quickly to appoint another Chief Medical Examiner.

In the following days, the Baden case became about as clear as a subplot in "I, Claudius," with many observers convinced that the ouster was part of a political arrangement between the Mayor and Manhattan District Attorney Robert Morgenthau. The Mayor insists there is no deal.

The ostensible reason for the ouster was criticism contained in letters the Mayor had received from Mr. Morgenthau and Dr. Reynaldo A. Ferrer, the Health Commissioner. The Mayor had asked for evaluations from the city's five district attorneys, he said, so that

he could decide if Dr. Baden could have the post permanently. Four of them had high praise for Dr. Baden and backed the appointment. But Mr. Morgenthau said there was widespread "dissatisfaction" in his office about the way Dr. Baden ran things. And Dr. Ferrer, who was not asked for criticism but volunteered it, agreed with Mr. Morgenthau that Dr. Baden had not done a good job.

According to one theory being discussed last week, Mr. Morgenthau's reservations about Dr. Baden were inspired by a desire to control the criminal justice system in New York. Those who advanced the theory said that Police Commissioner Robert J. McGuire supported the District Attorney, but they also believed that Mr. Morgenthau could not resist a possible opportunity to control the Medical Examiner, whose testimony on important cases can spell success or failure for a prosecutor.

But perhaps the most serious allegation against Dr. Baden was contained in Dr. Ferrer's letter. It said that Dr. Baden spoke at Lenox Hill Hospital on Feb. 3 and presented "details not previously presented in such fashion so as to indicate" that former Governor Rockefeller "had died during sexual intercourse."

But when the hospital was questioned, it turned out that Dr. Baden had been there on Feb. 9, not Feb. 3

city drug programs.

After Dr. Helpern passed his 65th birthday, he no longer enjoyed the protection of Civil Service and he became dependent on the approval of the Mayor to reappoint him on a year-to-year basis. Mayor Lindsay had become concerned about the reporting of deaths related to drug abuse; in the Medical Examiner's office, there was grumbling that Dr. Helpern had retreated from his earlier independence.

But he did not want to retire and his wife, who acted as his volunteer secretary, made it clear she did not want him to. Then, he accused Dr. Baden publicly of trying to discredit him by providing information to The New York Times for articles critical of his office and other city agencies. Dr. Baden said he was not the source for the articles.

Dr. Helpern finally did retire in December 1973, at 72. He died of cancer on April 22, 1977.

The furor over who would succeed him and a deteriorating relationship between Dr. Baden and Mrs. Helpern did not make the succession easy or auspicious, but it still does not totally explain the present conflicts.

One allegation against Dr. Baden made by Dr. Ferrer was that he issued, prematurely and without sufficient data, a report on Arthur Miller, a black businessman from the Crown Heights section of Brooklyn who was killed in June 1978 in an altercation with police. Dr. Baden denies making a premature report. This complaint, like the one regarding the alleged Rockefeller statement, presumably became part of the mosaic that caused Mayor Koch to arrive at his decision.

It is a far cry from the letter Dr. Baden got from the Mayor less than a month after Mr. Miller's death in it, Mr. Koch acknowledged seeing Dr. Baden's report on the death, and said, "It is excellent!"

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Charges, Countercharges and Riddles Surround the Baden Case



The New York Times/William Sauro
Dr. Michael M. Baden

and that the minutes of the conference showed no reference to Mr. Rockefeller's death. Moreover, Dr. Cahill revealed that he had been present at that conference and although he listened closely to Dr. Baden, he said he heard nothing remotely like Dr. Ferrer's allegation.

Dr. Ferrer refused to name the source of his information, saying through his spokesman that it would be "unethical" because he might be sued by Dr. Baden.

At his Thursday press conference, the Mayor said that just because some of the allegations might be untrue, it would not be enough to make him re-evaluate his decision. He refused to discuss specific charges and said, "It is not only a question of the factual issues in the complaints. It is a question of judgment, of temperament."

Here was the riddle. Why would the Mayor ignore the advice of four district attorneys and listen to only one? Why would he skip lightly around the apparent factual errors in the allegations? The Mayor was offering no answers.

But to some observers, the dynamics of the present controversy may well have their origins in the 1960's, during the tenure of Dr. Baden's celebrated predecessor, Dr. Milton Helpern. Dr. Baden had first met Dr. Helpern in 1955, when Dr. Baden was a medical student at New York University and Dr. Helpern was the most famous forensic pathologist in the country. In those days, Dr. Helpern was regarded as greatly competent and completely independent, calling his shots without regard for political consequences.

In 1965, Michael Baden started working fulltime for Dr. Helpern. Their mutual admiration was such that the Medical Examiner permitted him to join in editing a textbook on legal medicine.

By the late 1960's, however, there were the beginnings of a rift. Dr. Helpern did not approve of the fact that Dr. Baden's wife, Dr. Judianne Densen-Gerber, was running a large drug-rehabilitation program and at times was outspoken in criticism of state and