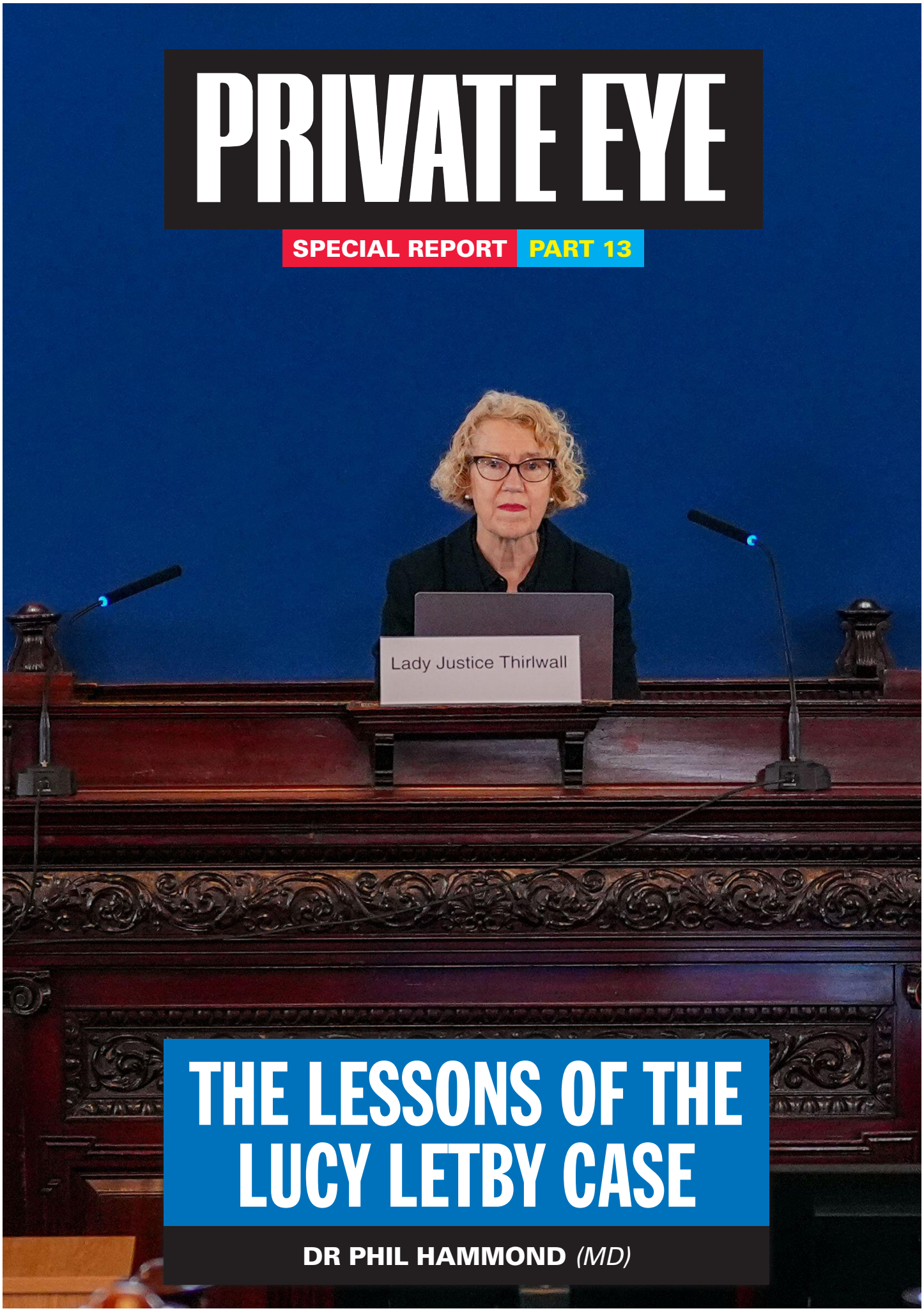
PRIVATE EYE

SPECIAL REPORT PART 13



THE LESSONS OF THE LUCY LETBY CASE

DR PHIL HAMMOND *(MD)*

THE LUCY LETBY CASE: PART 13

Discolouring the evidence

A KEY reason neonatal nurse Lucy Letby was found guilty of murdering seven babies by venous air embolism (VAE) is because expert witness Dr Dewi Evans and paediatricians at the Countess of Chester Hospital, where she worked, independently discovered a 1989 research paper, co-authored by Canadian paediatrician Dr Shoo Lee, which they believed linked the skin discolorations observed at the time of collapses to air embolism. Indeed, the so-called "Lee and Tanswell paper" received dozens of citations at the trial, and in written expert submissions.

Had anyone bothered to contact Dr Lee about the use of his paper as evidence, he would have pointed out that it referred to pulmonary vascular air embolism (PVAE), not venous air embolism (VAE), which is very different. Not only is it wrong to adduce what sort of skin changes you might get from VAE in neonates based on a paper about PVAE, but the skin changes described didn't even match his research findings. When he said this at Letby's appeal, it was not considered fresh enough evidence.

Dr Lee, now an emeritus professor of paediatrics in Toronto, has just co-authored a literature review, "Vascular air embolism in neonates", in the *American Journal of Perinatology* (published 27 December 2024). He cites reports of 10 (accidental) cases of neonatal VAE, with a 70 percent mortality rate. However, only two babies exhibited generalised skin changes and there were no recorded instances of the localised skin discolorations that were central to the Letby prosecution case. No blanching, no blue-black patches, no red patches, no livid discoloration, no migrating areas of pallor in extremities and, crucially, not the striking discoloration of "Lee's sign".

According to this review, you don't get localised skin changes even with fatal VAE, so they were likely due to something else (eg repeated doses of adrenaline and other drugs).

This new paper is surely fresh evidence because it renders another large chunk of the trial inaccurate, along with the "death by air in the stomach" theory that Evans says he recanted during the trial but the jury was still told it was one of Letby's "favourite ways of killing" (*Eyes passim*).

As for further evidence of death by VAE, there is none. According to Evans' own report, "right ventricular activity churns the mixture of air and blood into a bloody froth well known to pathologists". And yet experienced Alder Hey Children's Hospital pathologists failed to find bloody froth in the hearts of any of the six babies who had post-mortems. Perhaps they died from something else.

Alternative facts

THE latest reports compiled *pro bono* for the defence by practising level-3 neonatologists (including Dr Neil Aiton, who has a medical research doctorate in neonatal respiratory physiology) are so different from the reports prepared by the prosecution that they must surely count as fresh evidence. Based strictly on the case notes and investigations, they describe multiple clinical failures and errors which the prosecution experts and Chester paediatricians were oblivious to, and hence were never suggested to the jury as more plausible causes of death.

MD is at a loss to understand how prosecution experts failed to flag such serious failings in clinical care to explain collapses and deaths that the defence experts have now documented. That doesn't make the defence experts right, and their reports should be in the public domain where everyone can see them, compare them to the reports of Evans and consultant paediatrician Sandie Bohin, and form their own conclusions – rather than buried in the bowels of the Criminal Cases Review Commission for 20 years. As David Davis MP observed in his excellent Commons debate earlier this month, if Letby is to have an appeal it should be when she is in her thirties and not her fifties (when Davis and possibly MD may be dead).

Thirlwall update

IN THE closing straight of the Thirlwall Inquiry, Jeremy Hunt MP, health secretary at the time of the babies' deaths, apologised for any political failures that may have contributed. Had the unit been safe and spacious, with no sewage leaks and safe staffing levels of doctors and nurses, who knows what the death rate might have been.

Hunt stated that his Medical Examiner Scheme, delayed until last September by lack of funding, might have made a difference. Now all deaths in England and Wales that are not investigated by a coroner must be reviewed by an independent medical examiner. But there could still be huge variability. If the independent reviewer for the Chester deaths had been Evans, they would have been ascribed to deliberate harm. Had it been Aiton, in the cases he has looked at so far, they would have been ascribed to substandard care of fragile babies. It all comes down to the credibility, experience and independence of the examiner.

In MD's view, a team of independent examiners is needed for such complex cases. Certainly, doctors who may be in the frame for their own clinical failures should not be directing the police where to look, as happened at Chester.

The inquiry has confirmed there were 18 neonatal deaths linked to the hospital (10 in 2015, eight in 2016), seven of them attributed to Letby and two which were part of the original police investigation but haven't progressed to charges (yet). The inquiry has also confirmed the criminal trial findings that Babies C and P died from "air via nasogastric tube" and it was one of the modes of murder of Babies I and O. But Evans argues it was not a method of murder. Does this make the convictions unsafe? Only the appeal court can say, and probably not quickly.

Parents' voices

THE inquiry has also published a summary of correspondence between parents and the hospital, which includes these statements: "Child D's parents state that they believe Child D may have been taken off C-PAP (a form of ventilation or breathing support) too early with notes showing that every time she was taken off the machine, she crashed"; "Child D's parents disagree with the [APGAR] score given, stating '[Child D] seemed limp, of dusky colour and lifeless'", and "The family also queried why the mother was not provided with antibiotics before being sent home when her waters had broken".

Safeguarding failure

SARAH DAVIES, a clinical scientist, explained how doctors at the Countess of Chester failed to send blood tests to Guildford laboratory to determine if any babies had been poisoned by insulin or not: "When there is a suspicion of exogenous insulin administration, then this is a safeguarding issue… The clinician has ultimate responsibility for following up any abnormal results or safeguarding concerns." None of this happened, so we will never know.

Lone statistician

STATISTICIAN Professor David Spiegelhalter told the inquiry: "Humans are not very good at judging data… They can perhaps pay too much attention to sporadic runs of bad outcomes due to unknown factors and try to find patterns that may not actually exist." He argued that proper statistical analysis was essential in situations like this, to consider all the plausible causes, but this never happened either.

Meanwhile, Evans could change his mind again and decide all the babies died from potassium injection, one of his original theories. The trial of Lucy Letby has proven beyond doubt that you don't have to prove mode of murder, you just have to convince the jury of intent and opportunity.

M.D.


PRIVATE EYE
DONALD TRUMP
AN APOLOGY

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