

Police Authority for Northern Ireland



**5th Floor, River House
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Please reply to The Secretary

Your ref.

Our ref.

Date 11 March 1980

Dear Doctor

The recommendations of the Report of the Bennett Committee have been considered by the Secretary of State. Details of the action to be taken have been placed in the Library of the House of Commons.

Implementation of all the recommendations has necessarily taken some time because of the need for (a) consultations with representatives of the Medical Officers and (b) the provision of accommodation and equipment.

Consequential amendments have had to be made to the Memorandum issued on 21 May 1979. A copy of the revised Memorandum is enclosed.

A handwritten signature in cursive script that reads 'P J Farrelly'.

P J FARRELLY

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(Issued to all doctors other than the Forensic Medical Officers)

MEMORANDUM TO MEDICAL OFFICERS

1. INTRODUCTION:

The following scheme has been evolved for implementing the recommendations made by the Bennett Committee (The Committee of Inquiry into Police Interrogation Procedures in Northern Ireland).

The proposals relate only to medical examinations of those prisoners with whom the Bennett Committee was concerned, ie prisoners detained under Section 11 of the Northern Ireland (Emergency Provisions) Act 1978 or Section 12 of the Prevention of Terrorism (Temporary Provisions) Act 1976, on suspicion of terrorist offences.

2. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE BENNETT COMMITTEE:

Recommendation 38: "Medical officers must have the means to satisfy themselves that prisoners are not being ill-treated and, without assuming responsibility for monitoring the length of interviews, should have access to CCTV and should have power to question the length of interviews on medical grounds alone."

The Chief Constable accepts that not only should medical officers have the means to satisfy themselves that prisoners are not being ill-treated but that they must be given this opportunity if they are to comply with their ethical obligations as set out in the Tokyo Declaration. Present procedures will be suitably adapted as recommended by the Bennett Committee. If there should be any outstanding areas of doubt, the existing channel of communication between the medical officers and senior police officers will be used to the full.

Recommendation 39: "Medical examination should not necessarily take place after each interview, but the uniformed staff should ask each prisoner after each interview whether he has any complaint and whether he wishes a medical officer to see him."

If on admission the prisoner has seen, read and understood his rights to seek a medical examination at any time, including after every interview, it would be otiose to remind the prisoner of this right after every interview. But, if a prisoner does make a complaint to a uniformed officer after an interview, that officer will be required to make a written record of the complaint for inclusion in the prisoner's medical records, and to summon a doctor immediately in order to allow the prisoner to be offered a medical examination.

Recommendation 40: "Medical officers should see all terrorist suspects and persons suspected of scheduled offences during each period of 24 hours and offer them an examination."

The present procedures at Gough and Castlereagh ensure that each prisoner there receives a visit from a medical officer every 24 hours. The Chief Constable agrees that this practice should be extended to all other police stations in the Province where extended interrogations are carried out. Although a doctor's duties when "seeing" a prisoner extend only to concern for his physical and mental health and well-being, any complaints made by the prisoner to the doctor will be treated as a formal complaint and dealt with accordingly.

Recommendation 41: "Medical officers should be aware in every case of each other's findings and opinions."

In order to ensure that medical officers are made aware in every case of each other's findings and opinions, a new medical record form (Vide Section 5 of this Memorandum) has been devised. This form will accompany a prisoner throughout his period of police custody and every medical officer responsible for the prisoner's health will be required to keep this record up to date.

Recommendation 42: "The importance of medical examinations should be impressed upon prisoners both by Medical Officers and in printed notices."

In order to ensure that the importance of medical examinations is impressed upon prisoners, the notice of prisoner's rights, which each prisoner will see and sign as having understood before being interviewed, will contain a reference to the importance of medical examinations. (Vide Section 4 of this Memorandum).

Recommendation 43: "Prisoners wishing to have private medical examinations should continue to be obliged to call first on their registered practitioner or his partner. However, if neither is able to attend further arrangements should be made which could include either allowing the GP to nominate a substitute or setting up a "panel" of GPs from the area around the police station."

The medical responsibility for the care of a prisoner rests with the Medical Officer of the police office or police station in which the prisoner is in custody. The present practice of allowing each prisoner to request his GP or partner to examine him whilst in custody will be continued. However, in the event of that GP, or his partner, being unable or unwilling to attend the suspect, it will be for the Medical Officer with responsibility for the prisoner to agree with the prisoner's GP on a suitable and acceptable substitute doctor. The prisoner may, of course, refuse an examination by this substitute doctor, but will not be given the right to demand an examination by another GP of his own choice. (Guidance on procedure is contained in Section 6(b) of this Memorandum).

3. EXAMINATION OF DETAINED PERSONS:

Examination should be conducted in private. The extent of each examination must be at the discretion of the individual Medical Officer, but it is advised that the first examination at least should be a comprehensive one. It should be noted that even negative findings, where appropriate are important.

The detained person should be brought to the Examination Room by a Police Officer who should introduce the person to the Medical Officer and vice versa. The Police Officer should then ask the Medical Officer to examine the person and should leave the Room at this stage. The Medical Officer should begin by talking to the detained person, asking his name and address, his medical history and his own Doctor's name and address. He should ask where the person was detained and regarding his treatment since being detained.

Specific questions should relate to adequate rest, sleep and meals, and as to whether the person is alleging that he has been ill-treated or abused in any way, either physically or mentally. His answers to these questions should be carefully recorded.

4. CONSENT:

It is important that before asking for consent, the Medical Officer should explain clearly to the person the reasons for the examination. These usually are:-

- (a) to ascertain his general state of health and fitness to be detained and/or interviewed if applicable - if the Medical Officer is of the opinion that detention or interview would be detrimental to the prisoner's health, he should so advise the Police Officer;
- (b) to ascertain if he has sustained any recent injuries of any kind.

It is essential that the Medical Officer stresses to the person that it is in his or her own interests to be examined. In this context, the following opinion has been expressed by Senior Counsel:-

"If no reason is given for the Examination by the Doctor, it is left open to the Prisoner to say that because he was not alleging prior assault or ill-treatment, he thought there was no necessity to undergo Examination. Nothing was said to the Prisoner to encourage him to undergo an initial Medical Examination or to explain the purpose of such Examination.

Unless it can be proved that a Prisoner has been fully and properly informed of his right in his own interest to be Medically Examined, and proved that the purposes of his undergoing such Examination were adequately explained to him, neglect or refusal by a Prisoner to be examined may be of little weight in later resolving any medical issue which arises.

If a Prisoner is not encouraged to undergo Medical Examination and declines to be examined, then it certainly does not follow that an injury subsequently found must be regarded as pre-existing.

It is suggested that immediate steps should be taken to institute and operate a more effective system for requiring suspected persons to undergo Medical Examination. It follows that the greater protection which requires to be achieved will operate for the benefit of Prisoners, Police and Public."

The request for consent to a Medical Examination should be made by the Medical Officer who will then recall the Police Officer to the room to act as a Witness to any signatures.

On consenting to or refusing Examination, the detained person should be asked to sign accordingly, his signature being witnessed by the Police Officer. Consent should always be in writing.

Should the detained person refuse to sign, the fact should be noted by the Medical Officer and Examination should not be carried out. In this case, the person should be observed and the observations noted.

Where the person is under 16 years of age, written consent of an adult relation must be obtained. If no adult relation is available, the Medical Officer should observe the person and talk to him, but must not carry out an Examination.

5. REPORT FORMS:

In all Police premises where prisoners of this type are offered medical examination, a Medical Report Form will be made available for the use of examining doctors. A prototype form is attached. It consists of 3 sheets:

Sheet 1 - as well as identification details and information on the date, time and place of examination, this sheet provides for the prisoner to give written consent to examination, and for the doctor to record the main findings.

Sheet 2 - provides for a detailed record of findings and incorporates a check list of systems, organs, etc so that both positive and negative findings will be listed comprehensively.

Sheet 3 - consists of a Body Chart.

The originals of these 3 sheets constitute the doctor's own record. At the Police Centres where there is provision for records to be kept securely in medical custody the original Medical Record Form will be so kept. Elsewhere, they are for the examining doctor to retain in his own care.

Linked Medical Record:

Top copies of Sheets 1 and 3 will be treated by the NCR ("no carbon required") process so that an exact copy of these two record sheets is made when the originals are completed by the examining doctor using ball-point pen. Sheet 2 will not be copied. The copies of Sheets 1 and 3 constitute the Linked Medical Record, and will be passed on to each doctor who subsequently examines the same prisoner while in custody.

Handling of Linked Record:

The linked record will be sealed by the examining doctor in an envelope provided which is marked "MEDICAL IN CONFIDENCE". When the prisoner goes from one Police office or station to another this envelope will be conveyed with him by the Police, and handed to the next examining doctor. The only persons who will open and seal the "MEDICAL IN CONFIDENCE" envelopes are the examining doctors.

Disposal:

If the prisoner is admitted to prison, the linked record will pass into the custody of the Prison Doctor on the same basis of medical confidence. If the prisoner is discharged from Police custody, the linked record will be destroyed by, or on the instruction of, the last examining doctor.

Release of Medical Information: Confidentiality:

Examining doctors are bound to tell the Police if there are indications or allegations of ill-treatment, or if there is any medical condition that materially affects the prisoner's care in custody (eg if he is unfit for interrogation). The information recorded on the Medical Record Form is not declared to the Police, but if it is relevant to alleged or suspected ill-treatment it may have to be revealed at a later stage for legal/investigative purposes.

If the examining doctor elicits information which is not relevant to possible ill-treatment or to the prisoner's care in custody, this is treated in strict medical confidence.

The prisoner should understand the principles followed before his consent is sought to medical examination. A specific written form of consent to release of information will not be sought.

It should be remembered that, except where the prisoner is later admitted to prison, the copy of the Medical Record Form will be destroyed. The examining doctor will therefore require to keep his own record of findings at examination in case this is subsequently required.

At the conclusion of the examination the Medical Officer should also complete the Prisoner Medical Form 38/17(b) and hand it to the appropriate Police Officer. It is important that essential details of any allegations along with a simple statement of the Medical Officer's opinion are recorded under the corresponding headings on Form 38/17(b); this will enable the RUC Sub-Divisional Commander to take immediate steps to ascertain the truth of the matter and to obtain, preserve and record evidence which would otherwise be lost by delay.

Additionally, where a complaint has been made to the Medical Officer, and where the evidence tends to support the allegations, the following action should be taken:-

- (i) The Medical Officer should verbally report the occurrence forthwith to the Divisional Commander or his deputy; and
- (ii) A full typewritten report should be prepared and forwarded without delay to:-
 - (a) Complaints and Discipline Branch
Royal Ulster Constabulary
Ormiston House
Hawthornden Road
BELFAST 4
 -) and
 - (b) The Secretary
Police Authority for Northern Ireland
5th Floor, River House
48 High Street
BELFAST
BT1 2DR

(NOT TO THE POLICE OFFICER IN CHARGE OF THE CASE)

In these circumstances the usual report fee - category(e) of the Schedule of Fees is payable.

6. GENERAL:

- (a) Where a person is being released from custody and the Medical Officer has found any significant recent injury or disease and/or has administered any form of medical treatment to the detained person, he should make a brief note of the details and hand it to the Police Officer in charge of the person with an instruction that it be conveyed to the person's Practitioner.
- (b) The Police may grant access to the detained person to General Practitioners. Such examinations should be conducted in the presence of an experienced Medical Officer. If the General Practitioner exceeds the requirements of an ordinary Medical Interview while with the detained person, the matter should be referred to the Police.
- (c) Accommodation at Police establishments may not be suitable for the detention of prisoners who are ill or injured. The Medical Officer should in such cases approach the nearest Hospital Casualty Department with a request for admission. He should indicate to the Casualty Officer that a subsequent transfer to Ward 19, Musgrave Park Hospital, may be considered if the Ward Medical Officer regards the case as suitable.
- (d) Where the Medical Officer so decides, the dispensing of Drugs, Medicines etc, must always be done under his supervision.

March 1980.