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Thank you for the opportunity to respond to *Blood Testing Following Criminal Incidents Where There is a Risk of Infection – Proposals for Legislation*. We have canvassed the opinions of experts in public health, infectious diseases, general practice and forensic medicine regarding these proposals and we have also sought the views of our Ethics Department and the Medical Foundation for AIDS and Sexual Health.

BMA Scotland has some serious reservations about these proposals on both scientific and ethical grounds. As you acknowledge in the consultation, there is a balance to be struck between the rights of the victim and the rights of the suspected assailant. We believe however, that the scientific assumptions being made are false thereby undermining the proposals. In the absence of supporting scientific principles the ethical debate becomes less relevant. We will therefore in this response focus on the scientific grounds for our concerns.

As these proposals are restricted to testing for HIV, Hepatitis B and Hepatitis C, the treatment of these infections is an important consideration in deciding whether or not to test for them. The availability and effectiveness of post-exposure prophylactic treatment (PEP), given to prevent infection after known exposure, is also crucial to any decision to test an assailant.

There is no post-exposure prophylaxis available for Hepatitis C. Therefore testing of the alleged suspect for Hepatitis C would not contribute to the victim's or suspect's management. The incubation period of Hepatitis C is between two weeks and six months with an average of six to nine weeks. A negative test result, particularly in an assailant from an at risk group, such as IV drug users, would be no guarantee of absence of risk of infection. Counselling on the actual risk of infection together with testing, with consent, of the assailant and victim is the appropriate course.

The PEP treatment for those exposed to Hepatitis B is a course of Hepatitis B vaccine. Anyone thought to have been exposed to significant risk should be immunised without waiting for evidence of infection in the suspect. On this basis testing for Hepatitis B without consent cannot be justified.

All health care workers likely to be exposed to infection with Hepatitis B are immunised. We suggest that this policy should be extended to police officers. The BMA recently called for all children in the UK to be routinely immunised against hepatitis B due to the increasing

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prevalence of the Hepatitis B virus in the population and the availability and safety of the vaccination¹.

Post exposure prophylactic treatment for HIV infection should be started immediately after completing a comprehensive risk assessment and ideally within an hour of exposure if the risk of infection is high. The nature of the injury and means of exposure (contact with blood, urine or saliva) is of greater significance than the HIV status of the assailant. In view of the long incubation period, up to six months, a negative result in a suspect from an at risk group would not determine that treatment was unnecessary. This again undermines any justification for compulsory testing.

A point that is not adequately addressed in the consultation paper is the actual risk of infection with HIV, Hepatitis B or Hepatitis C following an assault or exposure to blood, urine or saliva. Established scientific and medical evidence is that the risk of infection is extremely low. Given that there are procedures in place for such incidents, that voluntary testing is being carried out and that there are very few cases of actual infections resulting from such incidents (paragraph 1.6 of consultation), the proposals do not appear to be a proportional response to the risk.

Currently in the NHS, where there has been a risk of occupational exposure to HIV, Hepatitis B or Hepatitis C, the source patient may be asked to consent to a test but coercion or mandatory testing is not used or justified. We suggest that a similar approach be taken with victims of assault. What is of the utmost importance is that support is given to individuals who have been exposed or those at risk of occupational exposure to dispel the sometimes disproportional fear attached to HIV and Hepatitis infection.

We hope that this information is helpful and we would be happy to give further evidence on any of the issues raised.

Yours sincerely

Dr Bill O'Neill
Scottish Secretary

¹ Hepatitis B vaccination in childhood, <http://www.bma.org.uk/ap.nsf/Content/Hepbchildhood>