

The Association of Forensic Physicians

Membership
Mrs Christine McKay

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www.afpweb.org.uk

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Bill Barron
Scottish Executive Justice Department
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Bill

RE: MANDATORY BLOOD TESTING PROPOSALS

I refer to our recent meeting where I am pleased to make formal comment on behalf of the Association.

As you know, I have had extensive experience of seeing both complainers and suspects of criminal assaults of the nature that has given concern in my capacity as a Forensic Physician (Police Surgeon) over the last seventeen years working in Strathclyde, Dumfries & Galloway and Lothian & Borders regions of Scotland.

Although the medical profession has moved somewhat in the way we approach suspects in Road Traffic Act cases so that it is now lawful to obtain blood from incapacitated drivers through the provisions of the Police Reform Act 2002 in certain circumstances, I am not sure that these new proposals on mandatory blood testing are necessary for primarily practical reasons.

That being said, I fully understand the apprehension of someone who has been 'needle-stuck' by an individual who may have a communicable disease and, indeed, have been in that situation myself albeit not for a number of years.

Firstly, I would point out that particularly in cases of sexual assault where the examiner may have little detail of the alleged assailant, one has to decide on post exposure prophylaxis on a clinical basis. Having jointly determined to embark on such treatment (with all the potential side effects that may accrue), it would be a curious decision not to complete the course given that any blood tests obtained may be in the period pending seroconversion.

I would also wish to point out that even if it is lawful to take the requested sample, without a fully cooperative patient, it would be exceedingly dangerous to the nominated doctor and any police officers present to go-ahead if there was any degree of resistance on the part of the suspect.

Most importantly, my personal experience is that if the suspect is approached the following day when the situation has calmed down and they are provided with an explanation of the possible benefits to the victim of the crime, they will often agree to provide the necessary sample without any undue coercion or risk to those persons attendant.

Also, I would like to refer you to current GMC guidance on public interest disclosure contained within their document *Confidentiality: Protecting and Providing Information* published in April 2004 where it makes clear that in certain specific circumstance an individual's right to privacy is overridden by the public interest where a failure to disclose information would otherwise result in death or serious harm to someone.

I hope these comments are of assistance but would, of course, be happy to amplify any of them if this would be of help.

Yours sincerely

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