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CLINICAL EFFECTIVENESS COMMITTEE

Providing a Witness Statement for the Police

Best Practice Guidance (February 2012)

Summary of recommendations

1. Witness statements should be provided promptly to assist the police. Level 5 evidence
2. Witness statements should only be provided after the patient has provided consent. Level 5 evidence
3. Information can be released to the police without consent in certain situations. Level 5 evidence

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Scope

This document guides clinicians (Doctors and Emergency Nurse Practitioners) in how to prepare witness statement to use as evidence. This document should standardise the content of a witness statement and defines emergency, urgent and standard statements.

The statement

Clinicians working in emergency departments have an important societal role in assisting the police. A witness statement should be provided promptly after a request by the police. A witness statement is usually related to a patient attending the Emergency Department with injuries due to an alleged assault. The statement should only be issued after the patient has provided written consent or a request is issued by a judicial authority.

The main purpose of a statement is to provide an evidence of facts that will be used in court. The statement is a way of providing evidence in court that is as valid as if the evidence was presented in person. It is for this reason that a declaration attesting to the truth of the statement is signed. Any dishonesty in a signed statement amounts to perjury and may lead to prosecution.

The statement is a method of communicating medical information to a lay person and so medical terms should be explained in a way that is easy to understand with medical terms explained.

It must be noted that an omission could be as improper as an invalid piece of information that is included.

Emergency Statements

There are uncommon occasions when the police request an emergency statement. A witness statement concerning a serious crime of violence, injury or death is required by a police officer at the first available opportunity. This statement will directly affect the ability of the police to investigate a serious offence or decision to be able to arrest, detain or charge a suspect within the limited time available under the law where appropriate. These statements will normally be confined to a description of the injury/injuries and a brief account of the nature of the treatment. They should be obtained from the most senior doctor involved in the patient's initial care and will be handed to the police without delay. In these circumstances the police will normally make the request due to either the serious nature of the case or because of time and legal constraints relating to a person in custody or whose detention is imminent. Where such a request is made it will be on the authority of an officer not below the rank of Inspector, whose name will be provided to the Emergency Department being requested to provide the statement. These statements should be regarded as provisional and returned to the police as promptly as possible, within 12 hours of a request.

Urgent Statements

This is a witness statement required to meet a deadline required for a prosecution, breach of which could seriously prejudice the continuation of the proceedings which will usually contain information which details a key element of an offence being charged or prosecuted. This should be provided within 72 hours of a request.

Where the request for an urgent statement is made by the police it will be made on the authority of The Criminal Justice case manager or the officer in charge of the case.

Where the request is made later in proceedings by The Crown Prosecution Service, it will be made by a named lawyer who has responsibility for and is actively reviewing the case.

Standard statements

These are all other cases where a witness statement is required from hospital medical staff, production of which will normally be not later than two weeks from the receipt of the request by the hospital liaison officer. The request for such statements will be made by the police via The Criminal Justice Case Manager or an identified Police Liaison Officer.

Constructing the statement

The contents of the statement are based on the patient's records and other documents related to his or her attendance. Medical history and history of other conditions or illnesses should not be a routine part of the statement unless relevant to the episode of attendance.

The statement is better typed and a copy stored in a secure computer. Hand written statements should be clear, legible, and in black ink. A copy should be kept for future reference.

The structure of the statement

- The title of the document (witness statement).
- Details of the legislation which made this type of evidence admissible (Criminal Justice Act 1967 s.9; Magistrates' Courts Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule.27.1).
- The doctor's or the Nurse Practitioner's full name.
- The declaration.
- The age if under 18.
- Introductory paragraph.

The introductory paragraph must include the name of the Clinician (Doctor or ENP) and the basic and any higher qualifications. It should also give the name of the employing Hospital Trust Authority, state their position within the Trust and duration of employment. The sources on which the statement was based must be documented (examining the patient, ED notes, hospital notes and results of investigations). It must also indicate if that the person who provided the statement is the person who examined the patient or not, and reason. The clinician who examined the patient should usually provide the witness statement.

Patient's Details

- Name and date of birth.
- Date, time and place of the examination.
- Reason for the examination.
- History of events leading to the examination and who gave the history if not the patient.
- Details of the allegations.
- Past and other medical history should not be routinely included.
- Drug and alcohol abuse should be mentioned if was contributing to in the circumstances leading to attendance or affecting prognosis.

Clinical Examination and findings

The examination findings should be documented in detail. They need to be presented in a logical manner. Important details are; site of the injury, extent of the injury, effect on nearby vital structures including neuro-vascular bundle and tendons should be documented. If many injuries are found these should be described in details and numbered.

Treatment, procedures and advice

Details of treatment should be listed. All procedure used (including sutures or other methods of closing skin injuries) should be described in detail. Advice given to the patient can be added in this section.

Giving opinion

A witness statement is a professional statement of facts only. Opinion is given by experts only and this should be based on extensive experience, knowledge, and research. Opinion should be justified and substantiated.

Release of Information to the Police without the patient's Consent

It should be presumed that clinical information should not normally be disclosed without the explicit, written consent of the patient. Only information that is directly relevant to the case should be disclosed. In certain scenarios, releasing information to the police is in the public interest. The decision to release information should be made by the Consultant in charge, or his deputy. The Consultant in Charge should consider discussing this with another experienced colleague or the Trust's Caldicott guardian. Disclosure should be considered where a serious crime has been committed. 'Serious crime' has not been defined in law, but normally includes; rape, abuse of a child or vulnerable adult, terrorism, murder and injuries from guns and knives. Theft, burglary, fraud and damage to property are not generally regarded as serious crimes.

Witness Care

The Crown Prosecution Service will make every reasonable effort to avoid calling a member of the hospital medical staff as a witness to give oral testimony at the court. This will be done, wherever possible, by serving the evidence on the defence and seeking to agree it, or by identifying any issues in contention for further consideration. The service of the original medical notes exhibited to a statement, where this can be agreed and arranged will often avoid having to call a member of the medical staff as a witness. Where the original medical records or copies thereof are appended to statements the patient's address and telephone number and any information related to third parties (e.g. identity and addresses of next of kin, relatives or employers) should be removed or suitably obscured in any copy served on or shown to the defence.

Prompt responses from medical staff for further information when required may also assist in avoiding the calling of such staff to give evidence.

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Review

Usually within three years or sooner if important information becomes available.

Disclaimers

The College recognises that patients, their situations, Emergency Departments and staff all vary. This guideline cannot cover all possible scenarios. The ultimate responsibility for the interpretation and application of this guideline, the use of current information and a patient's overall care and wellbeing resides with the treating clinician.

Research Recommendations

None identified.

Audit standards

There should be a documentation and audit system in place within a system of clinical governance.

Key words for search

Witness, statement, police, law, criminal justice

Appendix 1

Methodology

Where possible, appropriate evidence has been sought and appraised using standard appraisal methods. High quality evidence is not always available to inform recommendations. Best Practice Guidelines rely heavily on the consensus of senior emergency physicians and invited experts.

Evidence Levels

1. Evidence from at least one systematic review of multiple well designed randomised control trials
2. Evidence from at least one published properly designed randomised control trials of appropriate size and setting
3. Evidence from well designed trials without randomisation, single group pre/post, cohort, time series or matched case control studies
4. Evidence from well designed non experimental studies from more than one centre or research group
5. Opinions, respected authority, clinical evidence, descriptive studies or consensus reports.

Strength of recommendation

We use the GRADE system

Appendix 2:

Example

Witness Statement

(Criminal Justice Act 1967 s.9; Magistrates' Courts Act 1980, ss.5A (3) (a) and 5B; Criminal Procedure Rules 2005, Rule.27.1)

Statement of: Dr or ENP name

Age of witness: Over 18

Occupation of witness: Registered Medical Practitioner

This statement (consisting of --- pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: Dated the.....

I am employed by (Name of hospital trust) as..... (Position) for..... (How many months& years) my qualifications are.....

I am making this statement based on (seeing this patient and or from medical notes of staff who saw the patient if not seen by the person who is writing the statement) on ... (date) at (ED or MIU) of (Hospital Trust).

Mr/Ms (name) DOB (.....) gave a history of (.....)
On examination the following injuries were found (.....).
The following investigations were requested (.....) and the results of the investigation were (.....)
The following treatment (.....) was given. Patient was discharged/ admitted. The following advice was given (.....).

Signature..... Date.....
Page number.....

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