



Hampshire Constabulary  
Major Incident Room  
Fareham Police Station  
Quay Street  
Fareham  
Hampshire  
PO16 ONA.

Tel Code A

13<sup>th</sup> May 2005.

Mr Paul CLOSE  
Crown Prosecution Service  
Casework Directorate.  
50 Ludgate Hill  
LONDON,  
EC4M 7EX.

Dear Mr CLOSE.

Operation ROCHESTER. An investigation into deaths at Gosport War Memorial Hospital.

I am writing to update you in respect of this investigation.

You will recall that during our meeting of 6<sup>th</sup> July 2004, it was explained that the investigation team had identified 90 deaths for assessment by a multi-disciplinary panel of medical experts in Toxicology, General Medicine, Palliative Care, Geriatrics, and Nursing.

The objective of those experts was to examine the relevant medical records and effectively categorise them as optimal care, sub-optimal care or cases where the care afforded was assessed as negligent.

The expert panel has completed that work save for 2 cases (ongoing) but anticipated for completion within the next month.

The findings of the panel have been independently quality assured by a legal/medico lawyer, who has engaged in dialogue with the panel regarding specific cases.

During our discussions last year we predicted that nine cases would be subject to a full criminal investigation upon the basis that care had been assessed as negligent

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the certified cause of death in those cases being 'doubtful', that number has risen to Eleven.

Those cases are in the process of being examined by medical experts principally in Geriatrics and Palliative care, they have been tasked with producing evidential reports in respect of each case.

In addition supplementary specific medical experts in particular a renal expert, a radiologist, a gastroenterologist and a consultant haematologist have been tasked to provide evidence in respect of issues raised by the principal experts.

All experts are working to a designated framework to ensure a consistency of evidential product. In addition the experts have been served with a copy of the guidance helpfully supplied by Mr Robert Drybrough-Smith on 12<sup>th</sup> August 2004 highlighting the relevant law around Homicide, the issue of causation and component hastening/accelerating of death, the De minimis principle, and the issue of multi-factorial death.

It is clear from the early findings of the principal experts Dr's BLACK and WILCOCK that these cases present as examples of the most complex and challenging problems in geriatric medicine.

In addition to the ongoing work of experts, police investigators continue to gather evidence from the health-care professionals involved in the potentially 'negligent' care of the eleven patients.

To date 465 witness statements have been taken and over 2000 documented seized.

The first advice file relating to the death of Elsie DEVINE was delivered to the Casework Directorate on 24<sup>th</sup> December 2004.

Subsequent files will follow an identical format to ensure consistency of approach that being:-

- Confidential information a Senior Investigating Officer summary.
- A generic case summary relevant to all eleven cases.
- An individual case summary.
- Expert reports.
- Witness list.
- Family statements.
- Health-care staff statements.
- Police statements.
- Suspect interview records.

In addition, a file of statements taken from healthcare staff encompassing general relevant issues is being prepared.

The designated case-file officer is [ Code A ]

Two further advice files in respect of the deaths of [ Code A ] and Elsie LAVENDER will be delivered to your offices during the course of week commencing Monday 16<sup>th</sup> May 2005.

Investigations in respect of Ruby LAKE, Robert WILSON and Arthur CUNNINGHAM are advanced.

Interviews have been scheduled monthly with the principle clinical assistant in this case Dr Jane BARTON, and have been ongoing throughout this year. They are scheduled for completion in November 2005. The interview strategy involves incremental monthly disclosure of voluminous medical notes in respect of the following interview subject matter. To date Dr BARTON has supplied prepared responses to the disclosure.

It is anticipated that the challenge phase of these interviews will be completed once all initial responses have been received from Dr BARTON.

A total of 68 cases have been released from criminal investigation fourteen of these were designated as optimal care death through natural causes. No further action being taken other than to inform the families.

The remaining 54 cases have been forwarded to the General Medical Council and Nursing and Midwifery Council for their attention.

The GMC have held a further interim order committee hearing informed by some of the aforementioned material, relating to alleged sub-optimal care cases. The committee did not make an order affecting the registration of Dr BARTON.

The GMC have indicated that they will be making application under Section 35a of the Medical Act 1983 for disclosure of material in relation to the 'DEVINE' case.

I attach a copy of my letter of response dated 28<sup>th</sup> April 2005 for your information, I have commented that in my view it cannot be in the public interest to disclose these documents upon the basis that it will frustrate an effective interview strategy and that ultimately this information if revealed could end up in the public domain. My response broadly accords with CPS discussions with the GMC during September 2004.

The Nursing and Midwifery Council have made no further representations for disclosure.

I enclose Senior Investigating Officer summaries highlighting key points in respect of the advice papers relating to the deaths of Mrs DEVINE, Mrs LAVENDER and [ Code A ] [ Code A ] Those summaries will I hope serve to sign-post the issues of relevance.

May I now ask that consideration is given to the appointment of Counsel to secure advice in respect of potential 'Consultant' and 'Corporate' culpability and the way

forward in this regard. Whilst I appreciate that such issues are not likely to arise in the event that CPS advise that there is not a sufficiency of evidence to prosecute Dr BARTON, it would seem eminently sensible to commission counsel to review the case at this stage.

The investigation team will be in a position to present an overview of the investigation to date should you so require it, given the numbers and material required this perhaps would be better achieved in Hampshire.

I would be grateful if Mr CLOSE would telephone me once he has been able to review the enclosed documents to discuss the way forward.

Yours Sincerely

**Code A**

David Williams  
Detective Superintendent  
Senior Investigating Officer.