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Code A

From: Williams, David (DCI)
Sent: 03 November 2004 09:43
To: Code A
Cc: Niven, Nigel; Code A
Subject: FW: INTERVIEW STRATEGY(amended)

Thanks Dave..DW.

From: Code A
Sent: 02 November 2004 09:06
To: Williams, David (DCI)
Subject: INTERVIEW STRATEGY(amended)

Sir,

This is the most upto date strategy in respect of Rochester. The only change is on page 5 and hopefully addresses Mr Watts views on the selection of the interview team.



INTERVIEW
RATEGY.doc (64 KB)

INTERVIEW STRATEGY

OPERATION ROCHESTER

Summary of Investigation.

Operation Rochester is an investigation into the deaths of a large number of elderly patients at the Gosport War Memorial Hospital. (GWMH) These patients had in the main been admitted for rehabilitative or respite care. Predominantly the investigation revolves around the administration of Diamorphine by way of syringe driver to these patients.

This is the third enquiry by a team of officers from Hampshire Police in relation to the deaths of patients at Gosport War Memorial Hospital (GWMH). The briefing document written by DS Kenny 27/01/03 describes the current investigation as follows

“It is alleged that elderly patients who were admitted to the GWMH from as far back as 1989 for rehabilitative or respite care, were inappropriately administered Diamorphine by use of syringe drivers, resulting in their deaths”

On the 23rd September 2002 the current team commenced their enquiries. At that time the investigative team had been contacted by relatives of 62 elderly patients who had died at the hospital who were raising concerns. In addition the team had been provided with documentation from previous members of staff which related to concerns raised in 1991 by nursing staff about increased mortality rates in elderly patients.

It was decided that the investigation would

- Examine the documentation from 1991 and investigate the events surrounding it
- Review existing evidence and new material in order to identify any additional viable lines of enquiry
- Submit material to clinical experts and subsequently to CPS
- Examine individual and corporate liability.

The enquiry was therefore split into stages.

Stage one was to examine the circumstances and documentation surrounding 1991

Stage two was to obtain the opinions of medical experts in various fields in relation to the treatment of a total of 88 patients. An assessment phase was commenced to establish how many deaths could be attributed to potential criminal acts and a team of clinical experts was appointed. This team of clinical experts have reviewed these cases. The cases have been categorised by them through the use of a matrix to determine who in their opinion received optimal care and died a natural death to negligent care and death unexplained by natural disease.

Stage three would be the investigation of the cases identified as raising concerns and the submission of papers to CPS for direction.

The clinical team have screened all of the patient records and have identified a total of 10 cases as falling into category 3 therefore requiring further investigation. The clinicians have kept their individual notes in respect of how they came to these decisions but they have not been required to provide evidential medical reports to support their findings

The decision of the SIO DCS Watts is that four cases (DEVINE Code A LAVENDER & SERVICE) will be fully investigated and “fast tracked to CPS for direction and advice as to whether there is sufficient evidence of criminal offences having been committed.

The investigation team has appointed a further two experts in the fields of Palliative care & Geriatric care to review the records and statements of persons concerned with the treatment of the four nominated cases. These experts will provide evidential reports to the police and will address the issue of causation.

SIO Policy

To date there have been a number of SIO policy decisions in respect of witness and suspect interviews.

Policy Book 3

- i. (13) 30/09/02 *Witness strategy*. To interview 17 named members of staff from GWMH as potential witnesses
- ii. (14) 1/10/02 *Witness strategy*. To interview above persons directly utilising the help of the Health Trust and advising them that they can have Union and/or legal advice should they wish
- iii. (17) 10/10/02 *Witness strategy*. Medical staff that have been identified as suitable for witnesses will not be considered as “vulnerable witnesses” unless they have a physical or mental disability.
- iv. (24) 6/11/02 *Mr Horne & Mr Piper*. To interview ASAP
- v. (30) 12/11/02 *Appointment of WDS Adair as TIM*. Interview Strategy for Piper and Horne
- vi. (31) 21/11/02 *Confirmation of attached Interview Strategy*

Policy Book 4

- i. (06) 19/03/03 *Interviewing Medical Staff*. Production of an aide-memoire to assist with the interviewing of all the identified staff

Policy Book 5

- ii. *15/01/04 Future strategy of the investigation.* TST Family members and others able to give evidence in respect of the treatment of the patient, including the lead up to their admission to GWMH.
- iii. Appoint **Code A** as TIM in this case (due to his recent experience in medical case TIM issues). Task him to develop an interview strategy to conduct an early interview with relevant medical staff. This interview to be under caution, and to provide an opportunity for each to give an account of their part in the care of patients at GWMH. Provide the opportunity, if necessary through their legal representative. If declined, do not at this stage arrest.
- iv. When the state of the evidence is appropriate, if there is reasonable suspicion of a criminal offence, conduct more detailed interviews with medical staff that are relevant. This interview to be under caution, and under arrest (this being necessary to ensure that there is an opportunity to put all relevant questions). At this stage, however it would be appropriate for arrangements to be made for the individuals to be interviewed by appointment, and following appropriate pre interview disclosure of information - dependant upon the advice of the TIM.

Interviews conducted

Since the start of the first investigation a total of 23 people have been interviewed under caution on tape. Nobody has as yet been arrested on suspicion of any criminal offence in connection with this investigation. All of the interviews conducted thus far have centered on the earlier investigation of Gladys RICHARDS death. This death does not at present feature in the list of nine. Under these circumstances unless there is potential evidence of an offence having been committed by an individual all medical staff can be interviewed and a witness statement obtained.

Arrest Strategy

Jane Barton has been interviewed under caution as a voluntary attendee in relation to the death of one patient named Gladys RICHARDS. This interview was conducted at Fareham Police Station on 25th July 2000 in the presence of her solicitor Ian Barker. The interview process lasted 32 minutes and 26 of those minutes were taken up by Jane Barton reading statements. On 2nd October 2000 Jane Barton provided Hampshire Police with a written unsigned statement (D161) detailing her involvement with Gladys Richards. There have been no formal arrests in connection with this investigation.

It is important to take account that at this stage of the investigation it is possible that the full spectrum of offences including Unlawful killing and Murder/ Manslaughter may have been committed. The issue of identifiable culpability is still being investigated. The SIO has identified that Dr Jane Barton is the doctor who is central to

all the cases. In the main it is Dr Barton who as the Clinical Assistant prescribed virtually all of the drugs for the patients in question in particular Diamorphine. There maybe others who also have to be interviewed under caution as the need arise.

All of these offences are serious arrestable offences. In normal circumstances the police would arrest a suspect on suspicion of the offence and transport them to a police station whereby various rights would be explained and access to a solicitor provided. The interview would then be conducted and the person's detention monitored / extended up to a total of 96 hours.

In this investigation I believe that the above scenario would not properly serve the interests of justice for all concerned. The interviewing process for Dr Barton is likely to be lengthy due to the fact that she is connected to all four fast track cases and is probably linked to all 9 cases under investigation. It would not be feasible to cover all the areas of questioning within the specified time limits.

Dr Barton has been aware of the investigation into these deaths for a number of years. The General Medical Council has also examined the case and believes that there is no reason to suspend her from practicing. Dr Barton continues to work in the locality as a GP. It is apparent therefore that her professional governing body does not consider that there is a risk to the public.

I consider that for all parties who have an interest in this investigation it is important that all relevant areas of questioning are covered in respect of all suspects. This can be addressed by voluntary interviews under caution at suitable premises. This should be discussed prior to inviting Dr Barton to Netley with her legal advisor Ian Barker.

Voluntary Interviews under Caution

Code C 10.1 states that a person whom there are grounds to suspect of an offence must be cautioned before being questioned about the offence. The code clarifies suspicion as "*There must be some reasonable, objective grounds for the suspicion, based on known facts or information which are relevant to the likelihood the offence has been committed and the person to be questioned committed it*"

Dr Barton should therefore be told that the police are investigating a possible offence of Homicide and as her answers to questions may be given in evidence to a court to support a prosecution, for these reasons she must be cautioned. The grounds for cautioning Dr Barton are as set out in the above paragraph.

The voluntary interview process was followed by the SIO in an earlier part of Op Rochester. 23 interviews were conducted at Park Gate Police station.

I propose that the same process is initially adopted for this stage of the investigation. This would then allow for a more flexible interview process. Relevant areas would be covered in a more timely fashion. The evidential value of the answers to questions is the same as being under arrest. There does not appear to be any material to which adverse inferences could be drawn, therefore an arrest for these reasons is not necessary I recommend the following:

Location

The interview to be conducted in a suitable room at Netley Support HQ. Two rooms would be required, one for the interview and one for monitoring. Utilising Netley has several advantages. The facility allows for a degree of anonymity in a high profile media case. Both the suspect and her solicitor have the space and opportunity to discuss the case and advanced disclosure within the premises. There is ample parking. Full use can be made of the restaurant facilities, gardens etc.

The voluntary interview process commences with reminding a person that they are not under arrest and are free to go. By using the above facilities we are trying to create an environment whereby the interviewee is content and happy to stay. We can then conduct extended interviews as is appropriate. At the end of a session of interviewing a discussion can take place between interested parties as to the timing and duration of subsequent interviews.

Interviewing

The interview team should be drawn from the investigative team due to their in depth knowledge of the enquiry. There are 9 potential victims and the interviewers should have a good understanding of each case before embarking on an interview under caution. **Code A** will conduct the interviews. Both of these officers are skilled in interviewing & are PEACE trained. They both have day to day involvement within the enquiry. It is intended to use the same interview team on each occasion to improve the rapport and working relationship with Dr Barton and her solicitor.

To try and reduce the amount of duplicate questioning that could arise due to the number of victims I suggest that in consultation with the solicitor the police conduct an initial background interview. This interview should cover a number of topics that are not specific to any one victim i.e.; Professional Qualifications, Terms of Reference, Employment at GWMH, Supervision etc.

The content of this interview would be applicable to all cases that are under investigation. This interview could then be "bolted" onto the front of any or all of the victim interviews. The content of this interview is the same as that of other Healthcare professionals that are currently providing witness statements.

On completion of this initial interview the interviewing would concentrate on addressing issues that are particular to each individual victim. Remote monitoring of the interview should be carried out by the TIM and a member of the management team.

These interviews can be conducted with pre arranged topic areas such as, Admissions of patient, Examination, Care Plans, Treatment, Diagnosis, Prescriptions, etc. I would propose that the interviewing in relation to one victim be fully concluded before disclosing the next set of notes. This allows for a full debrief of the interview team, identification of potential new lines of enquiry and an opportunity to review and revise the interview policy.

Advanced Disclosure

There is a vast amount of material that has been gathered during the investigation that may at some point be pertinent to a prosecution. It would not be practical to reveal or disclose all of this material at the present time. The solicitor and his client should be provided with relevant information that is pertinent to a specific interview.

The objective of these interviews is to obtain accurate and reliable information from Dr Barton in order to discover the truth about matters under Police investigation. It would not be fair to her to have to try and assimilate information from more than one set of notes. Equally her interview should revolve around one set of circumstances and she should not be in a position whereby she is trying to second guess what she believes the police want.

Dr Barton is being asked to account for her decisions and interactions with a particular patient during his/her stay in hospital. It would be appropriate therefore to disclose a copy of the medical notes in respect of the patient prior to commencing an interview. These notes are lengthy and should be provided at least one week prior to an interview. Due to the passage of time since the deaths of victims it would be of assistance to also include at the front of the notes a chronology of events for the victim from admission to death. In addition any other material that is specifically relevant to the individual case may be disclosed as directed by the TIM or SIO. By conducting the interviews in this way the police can demonstrate at a later stage that the interview process was as fair and conducted in the interests of Dr Barton.

Non Disclosure

The documentation for non-disclosure at present is all material from medical experts. This is for a number of reasons. The first clinical team was appointed to screen the cases to assist the police investigation. They have not provided evidential reports and were not commissioned to establish who if anybody is at fault. Therefore any of their material is not relevant at this stage to witness interviews.

The material that is being provided by the experts Wilcock & Black is a work in action and their final reports will not be complete until they have had the opportunity to evaluate what Dr Barton has to say in relation to her treatment of various patients. To disclose this information at this stage would be counterproductive as it would lead to a debate on medical opinion during interview rather than an account of events.

PACE issues

With Dr Barton attending police premises on a voluntary basis a number of the standard PACE issues will not apply i.e, custody times etc. Upon arrival at Netley together with her solicitor Dr Barton will be met and the purpose of the interviews will be explained. This will include what the police are investigating and the reasoning behind conducting the interviews in the format planned. Her rights will be

explained together with the fact that she will not be under arrest and free to leave at any point. A short term custody record should be opened to record formally the processes undertaken.

Prepared Statements Presented before Interview

Dr Barton has been interviewed on a previous occasion as mentioned. At that interview her solicitor presented a prepared statement on behalf of his client in response to questioning. Should that scenario happen again then the following procedure should be adopted.

On occasion a Solicitor may take a statement from a suspect during consultation with the intent of presenting it to Police prior to interview. Any statement that is presented in writing via a Solicitor invariably falls under Code C11.13, which deals with unsolicited comments which are outside the context of an interview or which might be relevant to an offence. Any questions about the content of the statement should only be put to the suspect in a formal taped interview, as statements might well contain a suspects explanation and maybe useful in planning and preparing for an interview or provide options for further enquiries. When presented to Police the potential evidential value therefore must not be overlooked. If a statement is presented is should be treated as follows: -

The Officer to whom it is presented should confirm with the Solicitor that the suspect wishes to hand it to Police, if this is correct he should invite the Solicitor to write and endorse the statement to this effect.

If the Solicitor has written the statement and this is not clear from the statement ask the Solicitor to endorse it to this effect.

Sign, date and time of document to acknowledge receipt.

The document should be treated as an exhibit and there should be no objections to giving the Solicitor a copy. Tell the Solicitor the statement will be taken into consideration in deciding whether and or when the suspect is to be interviewed or further interviewed.

Code A