

Williams, David

From: Williams, David
Sent: 17 December 2006 14:24
To: Grocott, David
Cc: Stephenson, Roy; Weeks, Kathryn; McKeown, Christopher; Law, Dick; **Code A**
Subject: FW: OP ROCHESTER. CPS NFA letters.

Dear all..

The attached forms the basis of the CPS NFA decisions in this case..
 You will be briefed by Dave GROCOTT during Monday 18th December.. Re method release of the information etc.. Which is embargoed until Tuesday 19th December..

Thanks..DW.

From: Williams, David
Sent: 17 December 2006 14:19
To: Watts, Steve
Cc: Grocott, David
Subject: OP ROCHESTER. CPS NFA letters.

File Note.

Letter drafted by reviewing lawyer Paul CLOSE..15.12.2006. in respect of the ten 3b Cases.
 In summary..

His role to determine whether crime committed.
 Lengthy investigation has read all the evidence.
 Numerous discussions with police and counsel.
 Had considered and sets out the elements of gross negligence manslaughter.
 Had to consider whether criminality or badness.
 Errors alone no matter how catastrophic do not themselves amount to gross negligence.
 Having regard to overall expert evidence cannot prove Doctors were negligent to criminal standard.
 Medical evidence obtained by police very detailed and complex but does not prove drugs contributed substantially towards death.
 Even if causation could be proved not sufficient evidence to prove that conduct so bad as to be a crime.
 No realistic prospect of conviction.

All letters identical other than drug references.

All letters accompanied by separate CPS advice (sent in confidence)
 Advice sets out the circumstances, Dr BARTON'S prepared responses and commentary by key expert witnesses.
 Advice then discussed the legal framework for the decision

Including:-

1. Adomako test(duty of care)
2. Objective test re breach of duty.
3. The 'Bolam Test' not negligent if acting in accordance with accepted practice at the time.
4. Must show a breach as cause of death.
5. Negligence involves an objective assessment of an objectively recognisable risk.

6. R V Prentice.. The following could lead to finding of gross negligence:-

Indifference to risk

foresight of risk coupled with reckless intention

appreciation of risk coupled with intention to avoid it to a high degree of negligence

inattention or failure to avert serious risk of death going beyond mere inadvertence

All NFA decisions framed around the aforementioned principles.

DW.



Operation ROCHESTER.

If asked media release

17th December 2006. Approved by ACC SO WATTS.

Hampshire Constabulary detectives have completed their criminal investigation into the deaths of 92 elderly patients at Gosport War Memorial Hospital between 1990 and 2002.

The investigation culminated with ten full files of evidence being considered by the Crown Prosecution Service between December 2004 and December 2006, following a four year police investigation.

The evidence of family members and hundreds of healthcare staff was taken during the extensive police investigation and considered by the CPS along with the opinion of independent medical experts.

The Crown Prosecution Service has announced, following careful consideration, that negligence could not be proven to a criminal standard and that there was no realist prospect of conviction of healthcare staff.

Hampshire Constabulary has informed family group members of the outcome and that there will be no further criminal investigation in respect of the standard of care afforded to the named patients at Gosport War Memorial Hospital.

Liaison continues with healthcare stakeholders and H.M. Coroner to determine whether issues in respect of the deaths and standard of care require pursuing further.

The Senior Investigating Officer in the case Detective Superintendent David Williams said:

“This has been an incredibly challenging investigation for all involved given that many of the patients who died in hospital were manifestly unwell and suffering some of the most complex problems in geriatric medicine.

“The Primary Care Trust and healthcare staff providing witness evidence co-operated fully with the police investigation and I would like to publicly thank them for their assistance.”

Assistant Chief Constable, Specialist Operations, Steve Watts said :

“This investigation was long and complex, the Hampshire Constabulary put considerable resources into ensuring that a complete and impartial enquiry was conducted in accordance with national best practice in these cases.

“I immediately recognise and acknowledge the distress that this investigation must have caused family group members and healthcare staff alike.

“It is my genuine hope that the extensive nature of the investigation and the findings of the CPS can bring some closure to the sad losses of loved ones experienced by all at Gosport War memorial Hospital over the period under investigation.”

-ends-

Notes for editors.

1. Operation Rochester is an investigation into a number of deaths at Gosport War Memorial Hospital between 1990 and 2002.
2. Relatives who made complaints to Hampshire Constabulary have been regularly updated with the progress of the enquiry initially through bulletins and latterly through letters and personal contact from the investigation team.
3. Each case referred to Hampshire Constabulary has been examined by a panel of eminent national experts in the fields of palliative care, geriatric care, general practice, nursing and forensic toxicology in association with the case investigation officers. It was this examination that identified the ten cases of ‘most concern’ that were subject to full investigation by police.
4. A medical lawyer quality assured those decisions and conclusions before any relatives were approached with the details of their cases.
5. The investigation team has liaised closely with the health authorities the Nursing & Midwifery Council the General Medical Council the CPS and the Coroner throughout this investigation and continue to do so.

Lucy Dibdin 18 12 06

Approved by ACC SO