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TECHNICAL NOTE

Guidelines for doctors attending detainees in police custody: a consensus conference in France

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Abstract Medical practice in police custody needs to be harmonized. A consensus conference was held on 2–3 December 2004 in Paris, France. The health, integrity, and dignity of detainees must be safeguarded. The examination should take place in the police station so that the doctor can assess the conditions in which the detainee is being held. If the minimum conditions needed for a medical examination are not available, the doctor may refuse to express an opinion as to whether the detainee is fit to be held in custody or may ask for the detainee to be examined in a hospital. Doctors are subject to a duty of care and prevention. They should prescribe any ongoing treatment that needs to be continued, as well as any emergency treatment required. Custody officers may monitor the detainee and administer medication. However, their role should not be expected to exceed that required of the detainee's family under normal circumstances and must be specified in writing on the medical certificate. Doctor's opinion should be given in a national standard document. If the doctors consider that the custody conditions are disgraceful, they may refuse to express an opinion as to whether the detainee is fit for custody.

Keywords Police custody · Forensic medicine · France · Consensus conference · Guidelines

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Safeguarding the health, integrity, and dignity of all detainees remanded in police custody is a duty. This applies whether they are guilty or not. Since 1993, the rules governing police custody in France have been clearly established by the law. Medical care must be provided by a doctor at the request of the detainee, a friend or relative of the detainee, or the authorities detaining the individual. A need for harmonized medical practice in this field as well as in other areas of forensic medicine has been stated for years [1–5].

A consensus conference was held on 2–3 December 2004 in Paris, France. It was conducted in accordance with the method recommended by the French National Agency for Accreditation and Evaluation in Health Care [6], in accordance with the US National Institute of Health state-of-the-science conference statement method [7]. A broad-based independent panel, chaired by one of us (MD), was assembled to give balanced, objective, and knowledgeable attention to the topic. Panel members were screened to exclude anyone with scientific or financial conflicts of interest. Invited experts presented data to the panel in public sessions, followed by inquiry and discussion. The panel then met in executive session to prepare the

statement. Five predetermined questions defined the scope and direction of the conference. This paper presents the main points of the consensus statement. An extensive text is available from the Agence Nationale d'Accréditation et d'Evaluation en Santé website (http://www.anaes.fr/anaes/publications.nsf/wEdition/GU_LFAL-6M9HXZ).

Question 1—What is the doctor's mandate, what is its scope, and which doctor is mandated?

The doctor has three missions: (1) to protect the detainee's health, physical and mental integrity, and dignity; (2) to provide an expert-like assessment at the request of the judicial authority, and (3) to act as an expert (occasionally). In practice, these missions overlap somewhat, mainly because the same doctor is expected to perform all three missions.

The doctor decides whether the detainee's state of health is compatible with detention in a police station. The doctor has no legal capacity to decide whether the detainee should be released from custody. With the detainee's consent, the doctor may produce a certificate that: records injuries relating to the detainee's complaints, describes the marks of physical or psychological trauma, and states whether the lesions observed are compatible with the detainee's account.

Doctors may be requested to collect samples, estimate the detainee's age, detect foreign bodies within the detainee's body, or provide an expert psychiatric assessment.

Doctors are subject to a duty of care and prevention and must give the detainee full information and obtain their informed consent. Doctors should prescribe any ongoing treatment that needs to be continued, as well as any emergency treatment needed. They should advise the detainee on any further medical treatment they may require. Medical care in police custody is an isolated event in a patient's health care history. Unless there is an emergency, it should not be considered the right moment to start new treatment. However, it may be one occasion for a deprived or poorly integrated detainee to see a doctor. The doctor should, therefore, make good use of the situation. The examination should attempt to identify the main risks, i.e. suicide, addictive behaviour, risk of infection, mental disorder, or diseases entailing high risks for decompensation (asthma, diabetes, etc.) [8, 9].

The panel issued guidelines on the requisite medical skills and arrangements for attendance on detainees. French law leaves the choice of doctor to the discretion of police officers or the public prosecutor. The panel recommended giving preference to doctors meeting criteria of independence and professional knowledge.

Question 2—Where is the detainee examined? Under what conditions? What is the outcome?

Doctors should perform the medical examination in a police station whenever possible, to appraise the conditions of detention and of co-operation with the police. Most current facilities in France are not suitable for carrying out medical examinations. The *Ministre de l'Intérieur, de la sécurité et des libertés locales*—aware of this state of affairs—instructed (11 March 2003) that a programme of bringing facilities up to standard be scheduled. The facilities made available to the doctor should prove adequate for carrying out a medical examination but will not be appropriate for advanced medical care such as aseptic suturing or inspection of body cavities. The interview should be conducted in a language and words that both can understand. An interpreter should be available when the doctor arrives. The examination should be performed where it cannot be seen or overheard by any third party to preserve the detainee's dignity and the doctor's duty of confidentiality. The detainee should not be restrained in any way, except in exceptional circumstances, when the examination is performed [10]. Medical attention should be given as soon as possible.

Once the first medical examination has been completed, one of three situations may arise:

- The detainee's state of health is found to be compatible with his/her being remanded in custody without any special conditions. The doctor consents to a period of custody not exceeding 24 h, as the law states that, in case of extension of the custody, a second examination may be requested;
- The certificate of fitness is subject to certain conditions. The jury noted that, in practice, this option can often help reconcile the interests of and constraints on each party and strongly recommended that it be used. The conditions may be: complying with a deadline for custody in the police station; a need for a second examination after a period set by the doctor; giving medical care in the police station (e.g. continuing ongoing treatment or special surveillance of the detainee) or in hospital (e.g. injection of insulin, or eating a balanced meal in the case of an insulin-dependent diabetic); special remand conditions (for holding the detainee and conducting the interview);
- The detainee's state of health is not compatible with being held in custody in a police station because: further tests or a hospital assessment are needed, after which the detainee's fitness for detention will be reassessed; medical care is needed, which cannot be given in the police station and which requires admission to a hospital.

Question 3—How do custody conditions affect doctors' attendance and co-operation?

Custody conditions in French police stations are often demeaning. The panel issued guidelines to help doctors deal with such a situation: (1) If the detainee has a health problem that is incompatible with detention in the police station because of the physical conditions in that police station, the panel stated that the medical certificate of fitness for detention should be issued on condition that certain improvements be made or that the detainee be transferred to facilities where such improvements can be made; (2) if the detainee does not have a health problem but the doctor considers the custody conditions to be disgraceful, the panel noted that the doctor may refuse to make any statement on the detainee's fitness for detention.

Question 4—What are the features specific to the medical management of detainees?

Medical practice in police stations has highly specific features: The doctor may encounter context-related difficulties in the detainee's recall of their medical history and a risk of false allegations and of a concealed disease. Moreover, custody entails risks of decompensation in certain diseases. Medical management of detainees requires their guardians to provide specific services (surveillance, administering medication) as part of their protection duty. These services should not go beyond those expected of a family in normal circumstances. The doctor should specify in writing, on the medical certificate, the details of the medical surveillance required for the detainee to remain in custody. The panel recommended that the staff responsible for detainees should receive ongoing training in first aid. Specific diseases and situations are described in the full text of the panel's recommendations (http://www.anaes.fr/anaes/publications.nsf/wEdition/GU_LFAL-6M9HXZ).

Question 5—What should the medical certificate and record contain? The doctor's duty of confidentiality and liability

The panel stated that the doctor's opinion should take the form of a two-part national document. The first part should be a standard medical certificate to be sent to the authority who requested the doctor's attendance. Three copies should be made: one for the requesting authority, one for the doctor, and one for the detainee. The second part, which is not sent to the requesting authority, is the confidential medical record. Two copies should be made: One should be kept by the doctor, the other may be sent, in a sealed envelope, to the detainee at the end of detention. The panel has provided model documents (http://www.anaes.fr/anaes/publications.nsf/wEdition/GU_LFAL-6M9HXZ) and recommended that the model medical certificate should be accessible to all doctors attending detainees remanded in police custody.

In certain cases, the law allows for a psychiatric assessment of a detainee remanded in custody (http://www.anaes.fr/anaes/publications.nsf/wEdition/GU_LFAL-6M9HXZ). There was a consensus on the necessary caution in presenting the conclusions of an examination performed under such conditions.

The following principles should be complied with, as best as possible, when administering medication: (1) the detainee's right of access to medical care, (2) the doctor's duty of confidentiality, and (3) the responsibility of pharmacists and custody officers.

- If the detainees have their own supply of medication or if their family can bring them their medication, the jury recommended that the doctor split up the pack into individually sealed envelopes marked with the detainee's name and time of administration. The custody officers can, thus, deliver medication and comply with the duty of confidentiality. The panel also recommended that police officers who apprehend suspects in their home pick up any necessary prescriptions and medication.
- If medication is not available, the panel considered that it was acceptable for custody officers to go to the pharmacy with a prescription made out by the doctor called upon and deliver the medicines directly to the detainee, if this is done in the detainee's interests and with their consent. If medication is not available and there is no way of paying the pharmacist for prescribed medicines, the use of hospital services is the only solution.

The panel looked forward to the relevant government department setting up a task force devoted to the collection of data pertaining to demographics, health, detention conditions, and legal outcomes of police custody.

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