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M E M O R A N D U M

TO: Dr A J Vallance-Owen  
Edinburgh Office

DATE: 31 March 1988

FROM: Dr Vivienne Nathanson

SUBJECT: Taking of Blood Samples by Police Surgeons

Thank you for copying me the correspondence you have had from Mr Ruxton at the Crown Office in Edinburgh.

In response to his letter I would also say, and enclose a copy of both parts of the Shearard opinion, that the BMA sees it as essential that all tests for HIV are done only with the explicit and informed consent of the individual. This means that any test in which there is even the remotest possibility of an individual being identified must have consent. The exception, therefore, to getting consent before testing would be if at the end of a month all remaining bits of serum in unlabelled bottles left in the hospital were tested and you performed some HIV tests simply to find out the actual incidents of HIV in a particular population. In those circumstances none of the samples would be named and there would be absolutely no possibility of tracing it back to an individual patient. In those very limited circumstances it would be appropriate to test without concern.

In the situation which he discusses - that of the police surgeon taking blood for a particular test - the blood is obviously identifiable and the result, therefore, identifiable and it must have specific consent to the test. In addition there must be pre-test counselling and in addition to that the patient must have the right to refuse, that is the consent must be "free".

I would also agree with the point you made in your letter that a possible positive result must always be communicated to the patient and the situation and arrangements made for communicating to the patient must include proper post-test counselling.

I hope this information is of help.