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Original Communication

Fitness for detention in police custody: A practical proposal for improving the format of medical opinion☆

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ABSTRACT

Health issues among arrestees are a worldwide concern for which only local policies have been established. Physicians attending detainees in police custody are expected to decide whether the detainee's health status is compatible with detention in a police station and make any useful observations. A high degree of heterogeneity in the information collected by the physician and transmitted to the police has been observed. We analyzed the content and limitations of available documents and developed a model that could serve as a guide for any attending physician. The document presented here has been used in France on over 50,000 occasions since June 2010. We developed a two-page template consisting of (1) a standard medical certificate to be sent to the authority who requested the doctor's attendance and (2) a confidential medical record, not sent to the requesting authority. We evaluated perceived health by the three global health indicators of the Minimum European Health Module and used DSM IV criteria for the evaluation of addictive disorders. In the case of recent traumatic injuries, the certificate has also included the collection of data on traumatic injuries and the contexts of their occurrence. The proposed certificate achieved several goals, by protecting the interests of the person examined, in case of poor conditions of arrest or detention, protecting doctors in cases of legal proceedings, and allowing epidemiological data to be collected. The certificate may also contribute to an international awareness of medical care for detainees in police custody.

1. Introduction

Health issues in arrestees are a worldwide concern for which only local policies have been established to date.[1–3] International standards recommend that a detainees' right to medical care be equivalent to that available to the general community.[4,5] In the UK, the British Medical Association has stated that detainees in police stations are entitled to standards of health care equal to those in the National Health Service.[6] However, as conditions in police stations for detainees under custody are often demeaning,[7–10] any underestimated health damage can have critical consequences, including death.[11] Available data on deaths in police custody cited the following as the most frequent causes of deaths: acute alcoholic intoxication, deaths by hanging, cerebrocranial traumata, fatal intoxication with medical or illegal drugs, and death related to restraint for excited delirium.[11–13] Ill-treatment, which could affect as many as 15% of detainees,[14] is a matter of concern in a number of countries.[15–18] In two studies from Spain, the vast majority of medical documents was found insufficient in their appraisal of exposure to ill-treatment of arrestees.[15,19] Three facets of medical intervention in police custody that may stand in conflict with one another have been identified: first, a role of a medico-legal expert for a law enforcement agency; second, the role of treating doctor; third, the examination and treatment of detainees who allege that they have been mistreated by the police.[1] In France, any arrestee is entitled to a medical examination in police custody. The entitlement to a medical examination also exists in Spain, but not in Belgium, Denmark, Germany and Italy.[20] According to French Law, any forensic physician, general practitioner, or emergency doctor may be asked to examine detainees. The attending physician must assess whether or not they are fit for detention. The doctor's opinion is expressed in a medical certificate to be sent to the authority who requested the doctor's attendance. The issues of

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confidentiality of detainees' medical records and of their statements to the attending physician have long been highlighted in a number of countries.[21–23] In the UK, this included a 1993 Lancet editorial[1] and recommendations from the BMA Medical Ethics Department and the Faculty of Forensic and Legal Medicine.[6] The French Code of Criminal Procedure specifies that the medical certificate must be attached to custody records, but does not specify its content.[24] A high degree of heterogeneity in the editorial information collected by the physician and transmitted to the police has been observed in several countries.[3,21,25] Some questionnaires have been published in the UK, that ranged from a crowded one-page to a four-pages pro forma document published on behalf of

Medical examination of a detainee

Certificate delivered to the requesting authority

Acting at the request of Mr. / Ms. ……, police officer on duty at ……,
I, the undersigned, certify that on …… / …. / ….. at ……. hours, I examined

☐ in the police station ☐ in the hospital ☐ elsewhere: ……..……
a person who stated that their name was:

Surname: …….. First Name: …… Birth date …. / …. / …….. Sex: F/M

for the purpose of *(tick relevant boxes)*:
☐ assessing their fitness to be detained in a police station
☐ carrying out urinalysis and drug screening
☐ taking a blood sample
☐ describing traumatic injuries
☐ …… (*other*)

The person concerned, informed of my purpose(s), consented to them: YES / NO

Complaints of the person examined: ……
……

Clinical examination: ☐ performed ☐ not performed (*give reason*: ……)
Recent traumatic injuries : YES / NO Injury location: ……
Was a certificate describing injuries delivered? YES / NO

Treatment decision:
- Medication delivered directly to the person examined: YES / NO
- Medication given to police officer in a sealed envelope for delayed delivery : YES / NO
To be given to the detainee at the following time(s): ……
- Issue of an order: YES / NO
- Special attention needed during detention: ……..

Conclusions *(tick relevant boxes)*:

☐ Fit to be detained in a police station
- ☐ for a period of 24 hours from the start / the extension of custody
- ☐ up to …… hours …… / …….. (*dd/mm*)
- ☐ up to …… hours …… / …… (*dd/mm*), after which another medical assessment is needed

☐ Fit to be detained, provided the following conditions are met: ……..

☐ Unfit to be detained in a police station
- ☐ Transfer and evaluation in hospital
- ☐ Hospitalized
- ☐ No indication of hospitalization at the present time
- ☐ Needs to be under medical supervision in the emergency department

☐ Determination of fitness for detention requiring expert advice on site (*specify*): ……..

☐ Unable to determine fitness for being detained
- ☐ because of the conditions for examining the detainee
- ☐ because of the detainee's refusal to be examined
- ☐ for the following reason (*specify*): ……

Comments: ……..

Urinalysis and drug screening results:
- Cannabis: presence / absence
- Cocaine: presence / absence
- Opiates: presence / absence
- Amphetamines: presence / absence

Screening not performed (*give reason*: ……..)

Name and signature of medical practitioner:

Fig. 1. Content of the two-page certificate template. Abbreviations: Y: yes, N: no, DK: Don't know or refusal, CPD: Cigarettes per day, TTF: Time to the first cigarette of the day.

the Faculty of Forensic and Legal Medicine.[25,26] In 2004, a national consensus conference in France gained support from the French Medical Association, the French Society of Legal Medicine, the French College of Forensic Physicians, and the Ministries of Health, of Justice, of Interior, and of Defence. It stated that medical practice in this field should be harmonized and that the doctor's opinion should take the form of a two-page uniform document consisting of two parts.[8] In the UK, the Faculty of Forensic and Legal Medicine also made some recommendations.[6] The first page consisted in the medical certificate transmitted to the police and did not include clinical data, and the second page constituted the confidential medical record.[8,27] Five years later, this form was still rarely used throughout the country, possibly because of defects in its content. Our objective was to develop a document that could guide any attending physician to carry out all facets of their duties. The document presented here has been used in France, albeit with no legal obligation, on over 50,000 occasions in medical examinations of detainees performed in custody suites or in hospitals since June 2010.

2. Methods

Before the onset of medical examination and any collection of information, full consent was obtained from the detainee. According to the 2004 French national recommendations, the first page, transmitted to the police, included: (1) administrative data on the

Medical examination of a person held in custody: confidential medical file

Confidential medical document, not to be delivered to the requesting authority

Examination requested by the person: Y / N If yes, reason: ……

Medical history

• Asthma: Y / N • Diabetes: Y / N • Epilepsy: Y / N • Heart disease: Y / N • AHT: Y / N • Infectious diseases: Y / N
• Current pregnancy: Y / N • Contraception: Y / N • Other history: Y / N • Allergies: Y / N
• Psychological or psychiatric conditions: Y / N / DK
If yes: • follow-up by a psychiatrist: Y / N • psychiatric hospitalization: Y / N • History of suicide attempts: Y / N
• Current psychiatric referent: Y / N • Date of last consultation: …. / ….. • Target date for the next …... / …...

Details: ……
……

"Do you have a chronic health condition?" Y / N / DK If yes, specify……

"Do you have a severe limitation of at least 6 months' duration in performing activities people usually engage in?" severely limited – limited – not limited at all – DK

• Treatment, including opioid substitution therapy (*specify time last taken*): ……
……

Addictive behaviours and substance use in the last month:

Usual mode of consumption	Frequency of use	Normal use / abuse / dependence	Age at onset	Time since last use
Alcohol:				
Tobacco:	CPD: TTF:			
Cannabis:				
Cocaine/crack, specify :				
Heroin & other opiates or other illicit drugs, specify:				
Psychoactive drugs taken without medical prescription:				

Approach to addiction treatment: yes, ongoing monitoring – interrupted – no, never – not applicable – DK

"How would you rate your overall health?" very good – good – fair – bad – very bad – DK

Implementation of custody measure

Time since the onset of detention (*h*): ……. Type of alleged offence: ……..
First detention: Y / N / DK if no, delay since the last detention .....
Reported assaults: Y / N If yes, when: ☐ Before the arrest ☐ During the arrest ☐ In custody
If so, • place of assaults …… • description of assaults: ……

• Detainee's opinion on the course of detention: very good – good – average – bad – very bad – DK

Physical examination

AT: .... / .... , Pulse: ..... Heart and pulmonary auscultation: ……
Mental state: …… Vigilance: ……
Recent traumatic injury: Y / N, and if so, specify ……..
……

Capillary blood glucose: …… Peak expiratory flow rate: …… Other: ……

Treatment decisions

- Treatment delivered directly to the detainee: ……
- Delayed delivered treatment (*type and time*): ……
  If treatment: continuation of a current treatment Y / N – new treatment Y / N
- Issue of an order: ……
- Brief intervention on addictive behaviours: Y / N – not applicable
- Expert advice (result) / admission to hospital (*specify reason*): ……..

Comments: ……

Fig. 1. (*continued*).

attending physician, the detainee, and the time and place of medical examination, (2) detainee's complaints, (3) recommendations and advice for the custody staff, and (4) conclusions on the person's fitness to be detained. The second page, kept by the physician, included: (1) medical history, addictive behaviors, ongoing treatment, (2) remarks on the course of custody, and (3) the conclusions of medical examination and treatment decision. The health disorders explicitly mentioned, such as asthma, diabetes, and epilepsy, were the most frequently encountered chronic diseases in arrestees from various countries.[3,5,28,29]

In 2010, we introduced elements related to mental illness, suicidal risk, alleged assaults, and recent traumatic injuries. We developed a new template, which had to be limited to a total editorial space of two A4 pages for practical reasons, a one page certificate given to the applicant authority and another for the confidential medical file. The two A4 pages were actually a double folded single A3 sheet.

We evaluated perceived health by the three global health indicators of the Minimum European Health Module.[30] We used DSM IV criteria for the evaluation of addictive disorders and mentioned whether or not a brief intervention on addictive behaviors had been made.[31,32] In cases of recent traumatic injuries, functional impairment was evaluated and the duration of total incapacity to work, which indicates the victims' inability to fulfill their usual daily activities, was determined.[33]

Internal validation was obtained from 25 forensic physicians in our Department of Forensic Medicine, who discussed the layout, the usability, and the content of the certificate template. The certificate template presented is an English version translated from the French.

3. Results

The two-page certificate template is presented in Figs. 1 and 2.

3.1. Certificate transmitted to the police

The first page, which was the certificate transmitted to the police, mentions the consent or refusal of the detainee to be examined and any of their complaints. The doctor must state whether the clinical examination was performed or alternatively on what grounds it was not performed, and whether or not the detainee had recent traumatic injuries. In this case, the location of recent traumatic injuries has to be mentioned. When a detainee refuses that the physician mention that they have been assaulted, the certificate transmitted to police officers does not mention the assault.

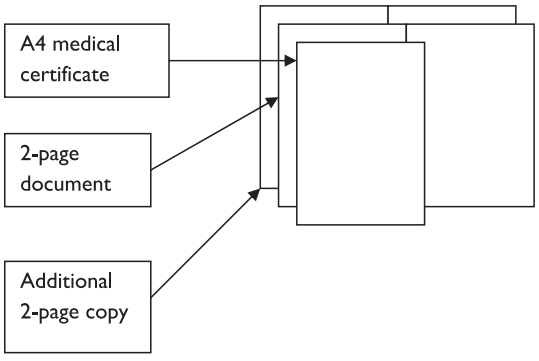

Fig. 2. Two-page document architecture. The first sheet is an A4 medical certificate. The second sheet is an A3 document consisting in a carbonless copy of the first sheet and the confidential medical document. The third sheet is an additional carbonless copy of the second sheet.

The treatment decision is specified: either treatment is delivered immediately to the detainee or pills are given in a sealed envelope to the police officer for delayed delivery, or an order is delivered, or the need for a specific monitoring is mentioned. The certificate concludes with the mention that the detainee is fit for detention generally, for a period of up to 24 h, under certain conditions to be specified, or unfit for detention. The inability to determine fitness for detention because of the conditions for medical examination is another option. In the case of vulnerable detainees, including those with lack of capacity or learning difficulties, the need for special attention during detention can be indicated to police officers, as well as the fitness to be detained under certain conditions.

3.2. Confidential medical record

The second page, used as confidential medical record, indicates first whether the examination is requested by the detainee and in such a case, the reason for the request.

It then addresses the issue of medical history. The doctor must note the presence of asthma, diabetes, epilepsy, heart disease, high blood pressure, infectious diseases, a history of suicide or mental illness, and the consumption of alcohol, illicit or psychoactive drugs. In the presence of one of the conditions listed, an editorial space is provided to allow space for some detailed information. Current drug treatments and time of the last uptake are also to be mentioned. In case of psychological or psychiatric disorders, information on past or ongoing follow-up, on psychiatric hospitalizations, on a psychiatric referral and the dates of the last and next appointment should be noted. Similarly, data on addictive disorders are collected to assess the amount consumed, the mode of consumption, the age of onset and the time of the last intake of each substance, including alcohol and tobacco. Health indicators of the Minimum European Health Module[30] are as follows: the question "Do you have a chronic health condition?" which can be answered with yes, no, or no opinion expressed. The question "Do you have a severe limitation of at least six months' duration in performing activities people usually engage in?" can be answered with severely limited, limited, or not limited at all, don't know or refusal. The question "How would you rate your overall health?" can be answered with very good, good, fair, bad, very bad, don't know or refusal. The detainee's opinion on custody is also requested and rated as very good, good, fair, bad, very bad, don't know or refusal. The delay since the onset of detention, the period since the last detention, and the type of crime is also taken into account. In cases of alleged assaults, the doctor is expected to mention the time of assaults, i.e. before the arrest, at the time of arrest, or during custody. They are also supposed to assess the mental state and level of consciousness of the detainee. An open space is provided for observations on the conditions of detention, the clinical data, the investigations conducted, and treatment decisions. The doctor has to state whether the treatment is delivered as part of a process of continuity of care or as a new treatment. An additional copy of the two-page template certificate is produced using carbonless paper. In cases of special medical requirements, this copy can be given to the detainee at the end of custody or transmitted in a sealed envelope with the detainee's consent to physicians intervening later or responsible for follow-up, e.g., in the hospital or in jail.

4. Discussion

The template certificate presented here allows any physician who is attending detainees to use a single editorial support and to distinguish between two parts: the standard medical certificate to be sent to the authority who requested the doctor's attendance and

the confidential medical record. Some doctors intervene only in exceptional cases in custody. They are neither familiar with features of the medical examination of a detainee, nor with the terms of response to a request from the police and the limits of confidentiality in this context. Making the same editorial support available to all physicians involved in examining people in police custody promotes the harmonization of medical practices. The clear distinction between the template's two parts helps doctors to identify which information they must disclose or, conversely, what they must keep confidential, regardless of the police officers' expectations, who commonly wish for doctors to reveal any information obtained during the medical examination of a detainee.

The duty of confidentiality is closely related to the second role of the physicians examining detainees, that of treating doctors. Guidelines from the 2004 conference of the French National Authority for Health adopted the principle of continuity of care in custody.[27] The reference to the different decisions regarding treatment is meant to promote the implementation of this principle. The third facet of medical intervention relates to detainees who allege that they have been mistreated in custody. Doctors cannot be prosecuted when they describe recent traumatic injuries possibly related to assaults from police officers. In such cases however, some attending physicians with limited experience of medical examinations of detainees in custody might be reluctant to report certain recent traumatic injuries, if they fear it would conflict with police officers' expectations. In this field too, the template offers physicians an opportunity to report injuries solely by completing the form. They have no need for writing an unsolicited medical report and can draw the attention of police or judicial authorities to any traumatic lesions they observe.

For the attending physician, the basic request from police officers is whether or not the detainee is fit for detention. Another change introduced in the template presented here is the suggestion that the medical response regarding fitness to be detained ought to be nuanced and more graduated than a simple yes or no response was. In a study conducted in Germany, more than half of detainees were fit for detention only under certain conditions.[3]

In France, prison medical officers have long been complaining about the lack of available information regarding medical events in police custody.[34] Forensic physicians should communicate and share medical information with general practitioners and prison medical officers, as recommended.[6,27] The health care issues and needs of those detained in police and prison custody may be different from each other.[28] However, the systematic production of an additional copy using carbonless paper made coordination between health care providers in police custody and in prisons easier. The proposed document is not part of an electronic patient data system. The French legal system has strict regulation of health databases by the French National Committee for Data Protection. The implementation of an electronic patient data system that could be accessed and used within police stations is not easily compatible with the needs for confidentiality.

Using a template certificate as the basis for research had been proposed previously.[25] The medical certificate used since 2010 can be now circulated throughout France and be made accessible to all doctors attending detainees remanded in police custody. The introduction of items such as general perceived health as evaluated by the Minimum European Health Module offers a perspective for conducting comparative studies and contributes to the academic interest in clinical forensic medicine, which has only recently been encouraged and developed.[35] In the French national consensus conference on doctors' attendance on detainees in police custody, the need for epidemiological data was highlighted.[27,36] The conference's panel recommended that research should be conducted regarding health conditions of arrestees.[27,36] The Minimum European Health Module, a concise set of instruments selected by the European Health Monitoring Program to monitor the different facets of health, has been used on a routine basis since 2004.[30,37,38] It includes the subjective item of self-perceived health. Self-perceived health appears to be an effective summary of health and has been shown to be a strong predictor of future functional limitations, cognitive impairment and mortality.[30]

The template certificate has proved useful in conducting studies on reported assaults and observed injuries in detainees[14] and in drunk driving arrestees.[39] It has made it possible to improve the collection of epidemiological data, especially in the field of addictive behaviors and mental health. The certificate has also expanded the systematic collection of data on traumatic injuries and their context of occurrence. This information, together with a description of the nature and location of observed lesions, helps detainee's interests to be preserved, in case of any complaints at the end of their police custody.

We have observed that a number of detainees (ca. 100 each year in our Department of Forensic Medicine) use the possibility to obtain such a document, which has been completed at the time of custody and can serve as an evidence for having been assaulted.

The data collected can be used as part of general health studies of detainees, some of whom have limited access to health care.[27] The information collected on addictive behaviors and mental health strengthens a public health approach and can also prevent complications that may occur during police custody.

In conclusion, the current certificate meets several goals: (1) it protects the interests of the person examined, in cases of poor conditions of arrest or detention; (2) it protects doctors in cases of legal proceedings; and (3) it allows epidemiological data to be collected. The lack of international standards of practice in clinical forensic medicine has been deplored.[35] The proposed certificate can contribute to an international perspective regarding standards of medical care for detainees in police custody.

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Conflict of Interest
There are no Conflict of Interest for any of authors.

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