

PROCEDURES FOR THE COLLECTION OF DENTAL RECORDS FOR PERSON IDENTIFICATION

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ABSTRACT

Dental treatment records offer a valuable resource for establishing the identification of deceased persons by means of dental comparison as required for forensic purposes. The creation, maintenance, storage and custody of such records is a legal and ethical duty of each dental practitioner. Dentists in Australia are also bound by federal and state legislation to protect their patients' confidentiality at all times. They are also required by law to note and report evidence of child abuse observed in the course of their treatment.

When dental records are required for forensic purposes certain procedures should be followed for their release and collection. This paper discusses these procedures, and illustrates by reference to an actual case the possible consequences of deviating from established protocols.

(*J Forensic Odontostomatol* 2007;25:63-4)

Key words: Identification, dental records, forensic odontology, child abuse

INTRODUCTION

The important role of dental treatment records for use in the determination of the identity of both living and deceased persons has been recognised and accepted internationally for many years.^{1,2} This has resulted in the development in various countries and administrations of procedures to be followed for the retrieval and collection of patient records from the dentists who have created them when needed by the authorities responsible for establishing identity in individual cases. Furthermore, over more recent years in some countries, dentists, along with other professionals, are legally obliged to record and report to police any evidence or suspicion of child abuse observed in the course of their practice.³⁻⁶

It is of fundamental importance that all procedures proposed for collecting records required for forensic purposes comply with the relevant laws of the State in which they are maintained. It is also important to understand that dentists in practice do not create and retain their patients' records for the sole purpose of forensic identification. Indeed, dental records fulfil two functions: - to chart the teeth present and details of their treatment in the best interests of their patients; and then, of considerable significance to the business success of the dentist, to record details of the fees charged. These records remain the property of the dentist, not the patient. Thus the forensic odontologist, in effect, exploits the existence of dental records as sequelae of dental practice.

The use of these records for forensic purposes, however, must always comply with the relevant legal and ethical obligations of all parties involved in a particular matter. First, there is the matter of professional confidentiality which is binding upon dentists and their patient records. This raises issues about the release and collection of records that are required for forensic purposes, and is of particular concern to all dentists as well as the administrators of state dental services who are at risk of facing charges of breach of professional confidentiality. In Australia, a dentist can be protected against such charges if a warrant for the release of records is issued by the State Coroner. The warrant is served upon the dentist by a police officer who takes possession of the records and provides the dentist with a receipt for them.

In 1990, pursuant to the Australian Federal Privacy Act⁷ and South Australian Local Government Act⁸, the South Australian Dental Service (SADS) adopted a policy to preserve the confidentiality of dental records held in school dental clinics. Under this policy, all school dental clinic staff were forbidden to release dental records to any person without the specific

personal authority of the Chief Executive Officer of SADS, who would arrange for collection and release of records to the Forensic Odontology Unit (directed by the Coroner to undertake the identification of the deceased). A case in the files of the Forensic Odontology Unit, The University of Adelaide, demonstrates how serious issues may arise by failure to observe a similar protocol.

CASE HISTORY

A missing child, believed drowned in the River Murray, was reported to local police. The child's father, on the advice of a police officer, sought the child's dental records from the local School Dental Clinic. These were refused in accordance with departmental policy, and the Chief Executive Officer was informed. Subsequently the child's body was located in the river. In due course, the Coroner's Office issued an order for confirmation of the identification of the child by means of dental comparison to be undertaken by the Forensic Odontology Unit. The school dental clinic records essential for this procedure were promptly obtained by the CEO who reported that the Senior Dental Officer at the school clinic had recorded a note that his examination had revealed injuries consistent with a pattern of child abuse. This information was then reported to the Coroner's Officer and an alarm was raised with the police officer who had previously investigated evidence of the abuse of a sibling by the child's father.

CONCLUSION

It is sobering to reflect that if staff at the School Dental Clinic had acceded to the request of the child's father and surrendered the records to him, the father could have been alerted by the note about the abuse implicating him, and destroyed the records, thus seriously frustrating the identification. This case illustrates the importance of carefully considering the possible consequences of deviating from established protocols for the collection of records, and it also indicates the importance of ensuring that all police officers are adequately educated about procedures to be followed for their collection.

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