NE FAITES PAS PENCHER LA BALANCE!

LES SOINS DES PATIENTS IMPLIQUÉS DANS UNE ENQUÊTE POLICIÈRE

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De temps à autre les infirmières de salle d'opération jouent un rôle complexe : celui de responsable de preuves médico-légales et de défenseur du droit à la vie privée du patient. La gestion appropriée de preuves peut être facteur déterminant dans le résultat d'une enquête criminelle. Pour mieux comprendre comment prévenir la destruction involontaire des preuves lors d'une intervention chirurgicale, il faut premièrement comprendre l'importance de celles-ci.

DON'T TIP THE SCALES!

CARE FOR PATIENTS INVOLVED IN A POLICE INVESTIGATION

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ABSTRACT

Occasionally perioperative nurses are involved in the complex role of caring for medical-legal evidence while also advocating for the patient's right for privacy. Appropriate management of evidence may be the deciding factor in the outcome of a criminal investigation. Understanding the importance of evidence is the first step in learning how to prevent its unintentional destruction during the surgical procedure.

Photo by J. Porteous

Contents of a Forensics Box

Our first consideration with every patient is to provide safe and efficient care. In the OR, cooperation with the police is balanced with the patient's right to privacy and confidentiality of their health care information. This is not always an easy task. Perioperative nurses have a responsibility to their patients as well as to investigators to do what is appropriate, since our actions can have direct effects on the outcomes of criminal investigations. Understanding the importance of evidence is the first step in learning how to keep evidence from being destroyed. Hospital documentation is often accepted in a court of law without challenge[1].

Immediate Preoperative Considerations:

When a police officer accompanies a patient to the preoperative holding area, his or her name and badge number should be documented on the patient record[2]. If the patient wishes to speak about the event being investigated, ask the patient if the police officer can be present. This may help to ensure accurate recording of the testimony and possibly avoid a court appearance for the nurse. Document that the patient discussed the event with the officer. The police officer may be requested to delay questioning if it interferes with necessary surgical care. Generally police officers do not come into the theatre.

If, however, the patient is under arrest, the powers and duties of the police officer expand and he or she may need to accompany the patient into the theatre and remain there until the patient is anaesthetized.[3] Once the patient is asleep, the officer should leave the theatre. If the officer's presence seriously interferes with safe, efficient care, he or she may be asked to relocate as appropriate.

The perioperative nurse should assess the patient preoperatively for risk of violent behavior. If there is risk for violence the nurse may ask a police officer to accompany the patient into the theatre and remain until the patient is asleep. This would be done to help assure the safety of the surgical team. If the officer comes into the theatre with the patient, document the officer's name and badge number on the patient record.

The preoperative assessment should also include a written account of the patient's physical appearance and behaviour[2] and a record of any unusual odours such as chemicals, gasoline or alcohol.[4]

Intraoperative Considerations:

If the patient is under arrest, or if the officer has a warrant, then the officer has the right to take any property that is believed to be connected with the offence.[3] Occasionally the patient will arrive in the OR for life-threatening emergent procedures without having had their clothes removed. All evidence, including clothes, should be handled with gloved hands.[2,5] Be cautious of needles or other sharp objects in pockets. If at all possible cut along seams and do not cut through holes or punctures as holes may provide police with evidence of bullet or stab entries.

In situations where every minute is critical, lay a clean sheet in the corner on the floor and put the clothes on the sheet, to be bagged separately later. Handle clothes as little as possible to avoid particles falling off.

As soon as is practical, all clothing should be packaged individually into paper bags. The use of paper bags prevents the decomposition of evidence that can occur if left in a plastic bag.[5] If the clothes are wet with blood or other fluids, they should be placed into moisture-proof bags for safe transport until they can be dried later by police. All footwear should be placed into paper bags. Any other physical evidence such as pills or other items found in clothing should be documented. The transfer sheet from the preoperative stretcher should also be bagged separately, since evidence may have fallen from the clothes onto the sheet.[6] Each item bagged should be numbered and labeled with the patient name only in order to ensure health care confidentiality. The contents should also be identified on the label. The same information should also be documented in the patient record.

If debris, such as glass fragments, dirt, hairs, or fibers, is found on the patient, collect them appropriately and document where they were found. Use clear tape to collect hairs. ORNAC standards offer excellent guidelines for collection of evidence[2]. A body graph could be added to the patient record. A body graph is a drawing that outlines the body, and allows for drawings or notations to be recorded in relation to different parts of the body. Package each type of debris into individual numbered containers or envelopes.

Record any sites where the skin has been punctured by OR personnel. If the patient states anything unusual just before or during induction, it should also be documented. Avoid cleaning more of the patient's hands than necessary, since gunpowder residue, tissue, hair or other evidence may be present. Document the presence of any other wounds on the hands, forearms or arms. Injuries such as these may provide evidence of self-defense.[5]

During positioning and skin prep, other areas of the body can be further assessed. Document and describe any wounds or body markings. The preoperative skin prep may remove evidence. Documentation prior to the skin prep may be crucial for appropriate legal outcomes. Describe any blood-stained patterns or bloody fingerprints on the patient's body. Describe patterned

Don't Tip the Scales (cont.)

abrasions around wounds, wound shape and size. Does the wound have ragged edges or clean-cut straight edges? Document dark residue around the wound (on an entrance wound this could be gunpowder). Save and document any fabric or debris in the wound or around the wound edges.[5]

During the surgery bullets or stab weapons may be removed. Only surgical forceps with tip covers may be used to remove the bullet as handling a bullet with metal instruments can interfere with evidence markings[7]. Do not drop the bullet into a metal container. Once the bullet is removed, the scrub should use water to rinse off blood and tissue to prevent microscopic markings from being destroyed[6]. Then place it in dry gauze and put it into a specimen container.[4] Some newer exploding bullets have sharp edges and glove tears may occur during wound exploration.

Avoid handling a knife in the same manner the culprit would have handled it. To avoid smearing fingerprints, handle the knife on areas not normally handled, and package it in paper or cardboard.

Taking a specimen of the patient's bodily substances without consent violates the patient's rights, unless it is required by law or is a part of the surgical procedure.[7]

Transfer of Evidence to Police:
Evidence should be transferred to police upon receipt of a warrant, if the patient is under arrest, or if the patient consents. Once evidence is gathered, packaged, labeled and documented, it can be given to the waiting police officer[8,9]. Document in the patient record the officer's name and badge number, time of transfer and how it was transferred.

In situations where the police officer produces a warrant for health information about the patient, a copy of the warrant should be placed into the patient's chart. In Manitoba, hospitals are legislated to have a designated privacy officer. During regular working hours, the privacy officer would arrange for the transfer of health information to police upon receipt of a warrant. On off-hours, the nursing supervisor could be called.

If police officers are not waiting nearby to collect the evidence (such as a knife used in a stabbing incident) the item may be given to hospital security officer for safekeeping until the police collect it. Ensure the documentation includes the security officer's name and when it was given. Documentation must verify that all the evidence has been in secure possession at all times.[4]

Postoperative Considerations:
If the evidence is not given directly to police or hospital security, it should be kept in a locked area, to which only one individual has the key. If hospital security personnel are not available, the evidence could be locked in a secure area such as the narcotics cupboard. This will ensure the chain of custody of the items.

The officer should be directed to the post anesthesia care unit in order to remain with the patient postoperatively.

Care of the Deceased Patient:
If a patient does not survive the surgical procedure, care must be taken when handling the body postoperatively. In some Canadian provinces the Medical Examiner needs to be notified and permission obtained to prepare the patient for transfer to the morgue[2]. This information should be located in the OR policy within each facility. It is important to document the name of the Medical Examiner and the time this permission was received.

When the patient is involved in a police investigation, postmortem care is more complex.[6] Ensure that surgical closing counts are correct and that all existing drainage tubes, implants, and invasive lines are left in place for removal and examination at autopsy. The literature recommends that medication vials and solution containers used during the surgical procedure should also remain with the patient.

Each of the patient's hands is placed into paper bags, and the mouth of the bag is taped[2]. The hands are placed at the patient's side. If the feet are injured in any way, they should also be placed into paper bags and the bags secured at the ankles. If the patient's head has sustained injuries, it should be placed into a paper bag

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also. Do not wash the body if it is considered part of forensic evidence.[3] Document any attempted IV sites or other intraoperative puncture attempts.

Most OR's do not care for patients who are involved in police investigations on a regular basis. In order to assist staff that may be on duty at the time, it is a good idea to have a forensics box available.

A FORENSICS BOX COULD CONTAIN:
small paper (lunch) bags to cover hands
large paper (grocery) bags to cover feet or the head
extra-large paper bags for clothing items such as winter jackets, etc.
body graphs to be used for documentation swabs
small rigid specimen containers
paper envelopes
labels
a narrow cardboard box that would hold a knife which has been used as a weapon
written guidelines for staff who are caring for a patient who is involved in a police investigation

A police officer may often accompany the patient during transfer from the OR to the morgue. The patient is placed into a locked area in the morgue and the officer takes the key. The police department will arrange to have the patient removed for autopsy at a later time.

There should be no access to the patient by the family without the medical examiner's permission. The OR department is not the optimal location for family to come to view their loved one. The perioperative nurse should remain in attendance and can lend support if the family is allowed to view the patient's body. In cases such as this, the names of family members who visit the patient should be documented[2].

Conclusion:

A clear documented chain of evidence is difficult to maintain in an intraoperative crisis, but every attempt should be made to maintain it. The patient may be the victim or the perpetrator of a crime. Evidence that is improperly collected, may be excluded in the criminal court. Preservation and transfer of evidence is essential in order to ensure appropriate legal outcomes. Regardless of our personal feelings or beliefs, each patient is entitled to safe and efficient professional care, respect for privacy, and consideration of their legal rights.

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