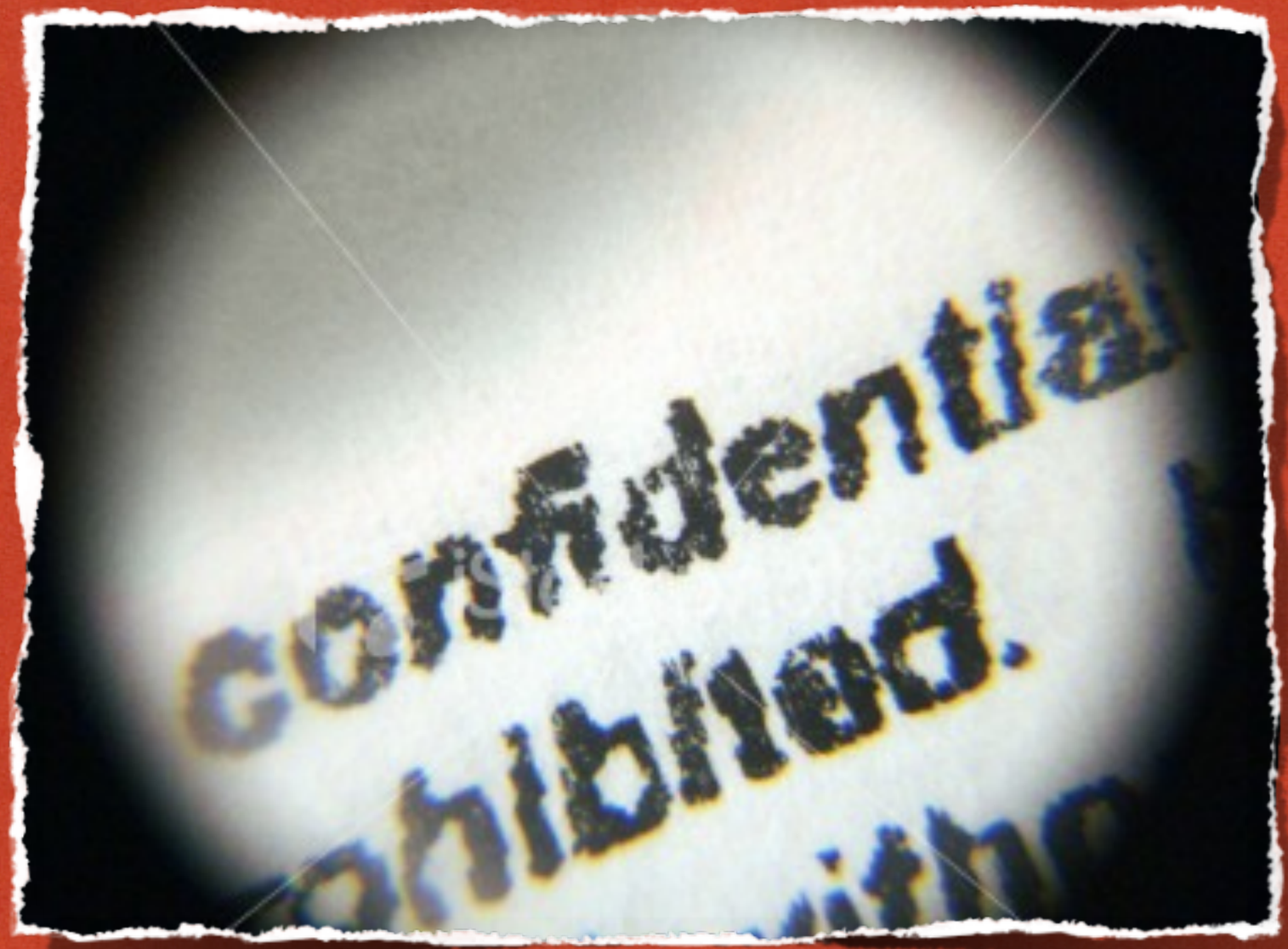

CONFIDENTIALITY

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OBJECTIVES

To know

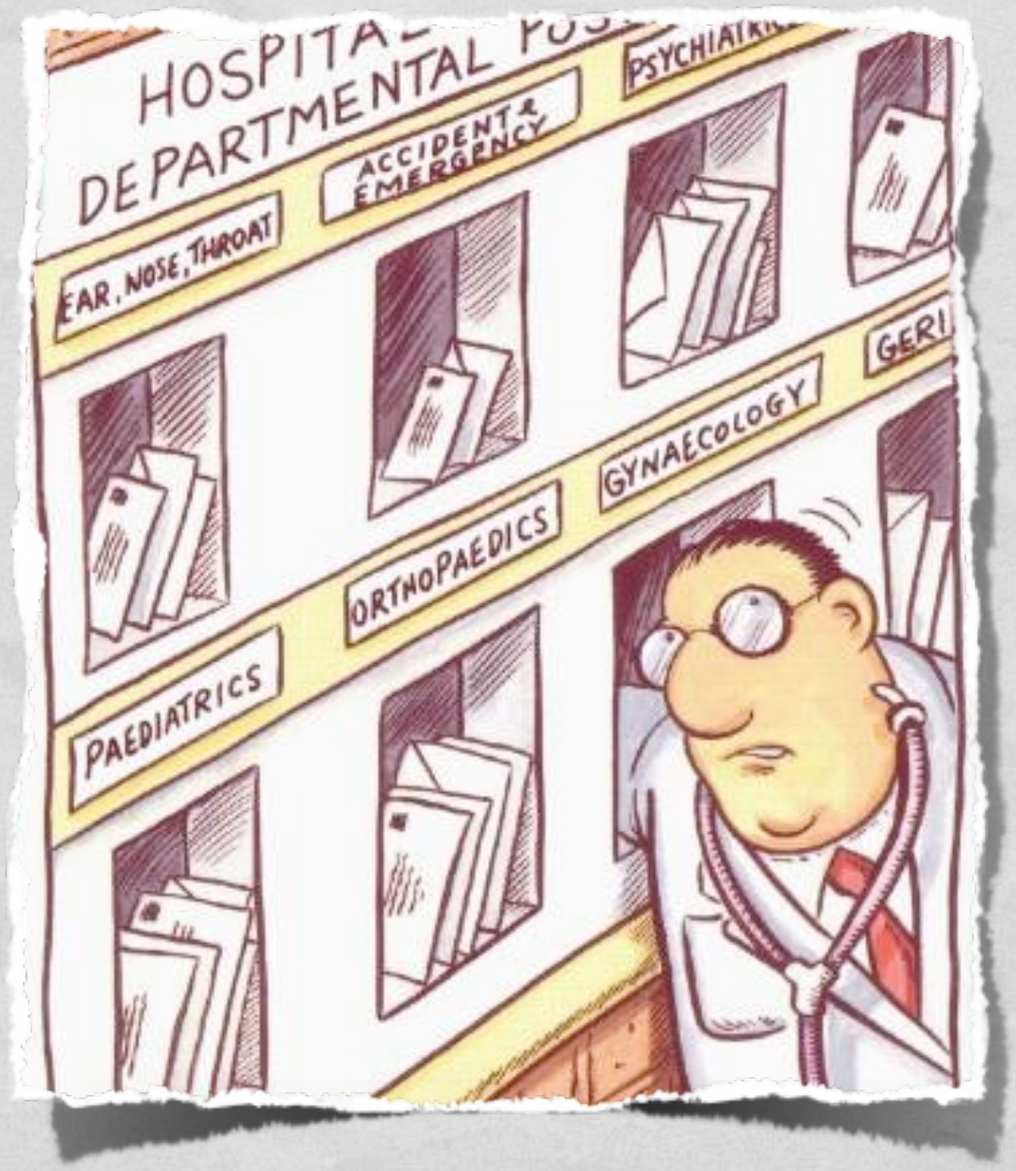
- the law behind confidentiality
- when to maintain confidentiality
- when to break confidentiality
- where to seek advice

CASE

- You are the MG on nights when a patient who has been assaulted is brought into the resuscitation room with a head injury, bleeding heavily, GCS 14, been drinking ++
- A police constable arrives and wants to speak to you
- He says there is a man has been assaulted and wants to know his name and details of his injury
- What do you do?
- What if; firearm/police want blood alcohol levels doing

CONTENTS

- Introduction
- Principals
- When to Breach
- Caldicott report
- Questions



INTRODUCTION

- Historically one of the back bones of medicine

  '...All that may come to my knowledge in the exercise of my profession or in daily commerce with men, which ought not to be spread abroad, I will keep secret and will never reveal...' Hippocratic Oath 4th Century BC

- GMC requirement:

  'Patients have a right to expect that information about them will be held in confidence by their doctors. You must treat information about patients as confidential, including after a patient has died. If you are considering disclosing confidential information without a patient's consent, you must follow the guidance in with Confidentiality: Protecting and providing information' GMC Good Medical Practice 2006

INTRODUCTION

- Only enshrined in law after 2000, Human Rights Act 1998, 'Everyone has a right to respect for his private and family life, his home and his correspondence'
- 1997 Caldicott report also includes electronic data

PRINCIPLES

- ALL patient identifiable health data eg x-rays, computer files, pictures etc
- Includes those with access to records eg receptionists
- Care on discussing patients in public areas
- Consultant agreement before release of info and ONLY that which is necessary
- Keep records for 8 years
- Continues after death

WHEN TO BREACH: PATIENT'S INTEREST

- Patient agrees (?consequences)
- Patient care eg to GP, relevant to future care, but NOT if patients denies permission
- To next-of-kin; not if pt refuses, but if NOK are at risk eg TB? and if patient lacks capacity (eg very ill/head injury etc)

WHEN TO BREACH: IN THE PUBLIC INTEREST

- Limit to the proper authorities, or those at fatal risk
- risk real, immediate & serious, reduced by disclosure, only means to reduce risk, limit to minimum
- Balance risk vs harm, assess urgency, exclude other possibilities, try and persuade pt, inform patient
- Must be able to justify your decision (e.g. to GMC)
- Inform police if patient assaults staff (not clinical)

DVLA

- If patient will not inform DVLA and cannot be convinced to do so, can inform them-(usually GP,) and tell patient that they are

- If drunk patient is about to get into car, anonymous police tip

COMPLAINTS/LEGAL

- Attempt to get consent, unless delay results in risk to others

- GMC have powers to demand notes when investigating performance

- to lawyers with consent of patient

- In court, doctor is protected by absolute privilege, though can have hearing if not 'material' to case, court order for release

PACES 1984

POLICE AND CRIMINAL EVIDENCE ACT

- On specific form (826C), (to consultant,) signed by Inspector or above-personal NOT clinical information
- Must be for serious arrestable offence (>5yr sentence),
  - treason, murder, manslaughter, rape, kidnapping, certain sexual offences,causing an explosion, certain firearm offences, taking of hostages, hijacking, causing death by reckless driving or causing death by careless driving when under the influence of drink, offences under the prevention of terrorism legislation, any other offence which has led or likely to lead to, serious harm to the security of the state or to public order, serious interference with the administration of justice or with the investigation of an offence, the death of or serious injury to anyone, substantial financial gain or serious financial loss to any person
- Be sensible, try not to obstruct BUT PT. FIRST

STATUARY DUTIES

- NHS (Venereal Diseases) Regulations 1974, need specific patient consent to inform GP, also under Human Fertilisation and Embryology Act 1990

- Compulsory disclosure: Abortion Act 1991, Misuse of Drugs Act 1971, NHS (Notification of Births and Deaths) Regulations 1982, Public Health (Infectious Diseases) Regulations 1988 & Public Health (Control of Disease) Act 1984, Health & Safety at Work Act 1974

- Prevention of terrorism (Temporary Provisions) Act 2000 (to prevent an act of terrorism),

- Road Traffic Act 1988 (name and address of driver only)

CALDICOTT REPORT 1997

DAME FIONA CALDICOTT, PSYCHIATRIST

- **Justify the purpose (s)**. Every proposed use or transfer of patient identifiable information within or from an organisation should be clearly defined and scrutinised. With continuing uses regularly reviewed, by an appropriate guardian.
- **Don't use patient identifiable information unless it is absolutely necessary**. Patient identifiable information items should not be included unless it is essential for the specified purpose(s) of that flow. The need for patients to be identified should be considered at each stage of satisfying the purpose(s).
- **Use the minimum necessary patient - identifiable information**. Where use of patient identifiable information is considered to be essential, the inclusion of each individual item of information should be considered and justified so that the minimum amount of identifiable information is transferred or accessible as is necessary for a given function to be carried out.
- Access to patient identifiable information should be on a strict **need to know** basis.
- **Only those individuals who need access** to patient identifiable information should have access to it, and they should only have access to the information items that they need to see. This may mean introducing access controls or splitting information flows where one information flow is used for several purposes. Everyone with access to patient identifiable information should be aware of their responsibilities. Action should be taken to ensure that those handling patient identifiable information - both clinical and non- clinical staff - are made fully aware of their responsibilities and obligations to respect patient confidentiality.
- **Understand and comply with the law**. Every use of patient identifiable information must be lawful. Someone in each organisation handling patient information should be responsible for ensuring that the organisation complies with legal requirements (Caldicott Gaurdian).

SUMMARY

- In most cases maintain strict confidentiality
- Always be able to justify any breaches in confidentiality
- You must breach confidentiality when legally required
- Wherever possible inform your defence organisation and the patient (in that order!)