

LETTERS TO THE EDITOR

Dear Editor:

I am writing in response to Theodora Theodonis's article entitled "A Nurses's Dilemma: Criminal Sanctions in the Hospital Setting" which appeared in the Fall 2001 edition of the Society's newsletter **On Examination**.

I was counsel to the Shore family at the lengthy Coroner's Inquest before Dr. T. James Cairns, Deputy Chief Coroner. I also represented the Shores in their civil litigation. I came to know the facts of this case intimately.

The thrust of Ms. Theodonis's article is that somehow the charging of nurses Doerksen and Soriano is unfair because it masks systemic causes for medical mistakes made in this case. Ms Theodonis is quite wrong about the facts in the Shore case. There may be systemic errors which do give rise to losses. All systems can be improved and if improvement is warranted, then it should be implemented.

Having said that, Lisa's death was not in any way, shape or form attributable to systemic problems. Lisa's death was the direct result of nurses ignoring systems that were in place. This was a people problem, not a systems problem. To suggest otherwise is to miss the point—a point which was manifestly clear to the five member Coroner's jury—which ruled Lisa's death a homicide; and a point which did not escape anyone who spent approximately twenty days in Coroner's Court or to anyone who took the time to read approximately 2000 pages of Inquest transcripts.

There are clearly "cracks in the health care system". However none of these cracks had anything to do with Lisa's death!

The other point that Ms. Theodonis makes is that "nurses may find it difficult to avoid behaviour that could lead to criminal charges"—when "patient

care is challenged daily by scarce resources and increasing demand". This, too is a non-sequitur in the context of the Shore case. As long as health care professionals behave within very wide parameters, the criminal justice system will not intrude, This truth is supported by the fact that in the last twenty years there have to my knowledge been only three cases in which Ontario nurses have had to defend themselves against criminal charges.

Ms. Theodonis understates the obvious when she calls Lisa's death and its legal aftermath an "unfortunate incident". She is quite wrong that the criminal case will clarify anything—other than whether these two nurses were merely negligent or whether they were criminally negligent. The nurses will be tried in a court of law and will receive justice. Whatever the verdict is, it will not in any way be a reflection on systems or on health care in Ontario.

Yours very truly
Frank K. Gomberg

UP-COMING PROGRAMMES

May 22/02	Annual Dinner
September 25/02	Lessons & Changes from September 11
November 27/02	Dinner Meeting TBA
February 5/03	Dinner Meeting TBA
April 9/03	Dinner Meeting TBA
May 21/03	Annual Dinner
June 2003	Medico-Legal Antiques Fair