Effective Use of Medical Records in Section 1983 Litigation

Law Department



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City of Philadelphia Law Department
Civil Rights Unit

Overview

- What can records teach us?
- Telling a Story Through Medical Records
- When Records Hurt More Than They Help
- Experts and FRCP 26(a)(2)

Record Review Checklist
Medical Records

- Interrogatories
- Request for Production of Documents
- Medicals – (look for **history**, **accidents** & if **head injury** look for Glasgow Coma #)
  - EMS Records
  - ER Record
  - Chronological Treatment (in order of first visit)
  - All Diagnostic Treatment In One Section (date and where done—facility)
    - Organize by Date
    - If PT dates, just list (but review SOAP notes thoroughly for clues)
- Prior Incidents/Medical History
- Bills (any type of liens/insurance)
- Wage Loss
- Other Important Documents

MEDICAL INDEX

Plaintiff's Name
DOB: _____
Date of Incident: _____

BILLS & LIENS
Philadelphia Hospital.....$5,000
Lien.....$0 (Independence Blue Cross)

MEDICALS

I. **Philadelphia Hospital**

8/12/18 DOI – pain 10/10 "achy" – DUI arrest--here for blood draw
PL had splint applied
Dx: alcohol intoxication and left olecranon fracture
Discharged to police custody – instructed to follow up with ortho

II. **Health Center I**

10/15/18 L. Elbow fracture follow up – PL had MVA 8/12/18 and hit a truck's bumper but didn't hurt himself from accident – PL reported police handcuffed him and in the process of putting his left arm on his back, fractured his elbow. PL went to see ortho sports medicine.
Dx: closed fracture of left elbow

DIAGNOSTICS

Date	Test	Impression	Location	Record
8/12/18	CR Elbow LT	Minimally displaced chip fracture of the posterior superior respect of the electron. Diffuse soft tissue swelling.	Hospital	Health Center
11/18/18	MRI L Elbow	Large elbow joint effusion. There is an avulsion fracture of the lateral epicondyle. Mild marrow edema involving the capitellum and coronoid process, compatible with osseous contusions attributable to recent trauma.	MRI Place	Health Center

Shortcuts to Look for in the Records

- Look for Plaintiff's Narrative - HPI
- Nurse and Doctor Notes
- How they got to the hospital
- Signs they're under the influence of substances
  - Narcotics
  - Alcohol

Plaintiff's Own Words

General medical

Patient: [redacted] MRN: [redacted] FIN [redacted]
Age: [redacted] Sex: Male DOB [redacted]
Associated Diagnoses: Acute pain of right shoulder; Rib pain on right side; Knee pain, right; Ankle pain, right; Blood per rectum; Acute hemorrhoid
Author: [redacted]

Basic Information

Time seen: Initial Time Seen
Time Initially Seen: [redacted]

Arrival mode: Walking.
Additional Information: Chief Complaint from Nursing Triage Note : Chief Complaint
[redacted] Chief Complaint [redacted] pt reports last tuesday getting pulled out of his car by the police and injured R side of trunk. no OTC taken. [redacted]

History of Present Illness

This is a 54-year-old male with no significant past medical history who presents today with a days worth of right-sided shoulder and rib, knee and ankle pain which began after he was allegedly assaulted by a police officer and was struck in the chest. Moderate in intensity. Has been ambulating. He has been having constant right-sided chest and lower extremity soreness ever since this incident, was incarcerated and did not have any imaging done, per the patient. He is not had any pain control or NSAID. No vision changes, no trauma to the head. Not an anticoagulation. Also reports that for the past 2 days [redacted] Doesn't drink ETOH excessively and no asa or anticoag. No lightheadedness, dizziness, no left-sided chest pain, no dyspnea.

Doctors and Nurses Notes

NURSING PROCEDURE: NURSE NOTES

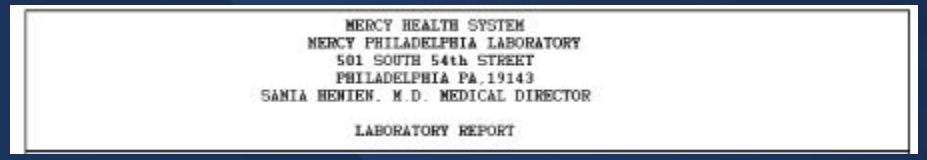
NURSES NOTES: Notes: pt attempted to jump over side rail of bed and in the process pulled IV out, pt placed in restraints for pt safety, pt remains confused, awaiting lab results, will continue to monitor. (20:45 KRIS)

Notes: pt AAOx3 but still with impaired judgment, awaiting repeat lab results, will continue to monitor. (22:11 KRIS)

Notes: restraints removed, pt ambulated with steady gait, AAOx3. (22:58 KRIS)

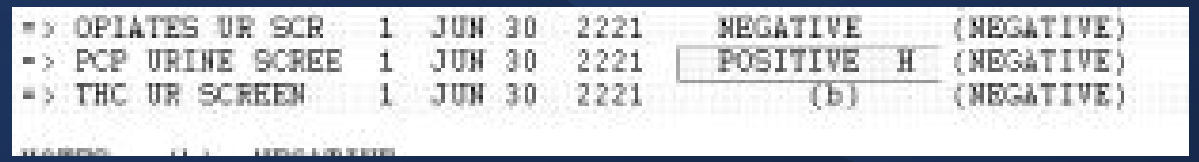
Signs they're under the influence of substances

Lab Reports



MERCY HEALTH SYSTEM
MERCY PHILADELPHIA LABORATORY
501 SOUTH 54th STREET
PHILADELPHIA PA 19143
SANIA HENIEN, M.D. MEDICAL DIRECTOR

LABORATORY REPORT



=>	OPIATES UR SCR	1	JUN 30	2221	NEGATIVE	(NEGATIVE)
=>	PCP URINE SCREE	1	JUN 30	2221	POSITIVE H	(NEGATIVE)
=>	THC UR SCREEN	1	JUN 30	2221	(b)	(NEGATIVE)

Notes



TEMPLE HEALTH
TEMPLE UNIVERSITY HOSPITAL
Temple University Hospital
Episcopal Acute
100 E Lehigh Ave
Philadelphia PA 19125
[redacted]
MRN: [redacted], DOB: [redacted], Sex: M
Acct #: [redacted]
Adm [redacted], D/C: [redacted]

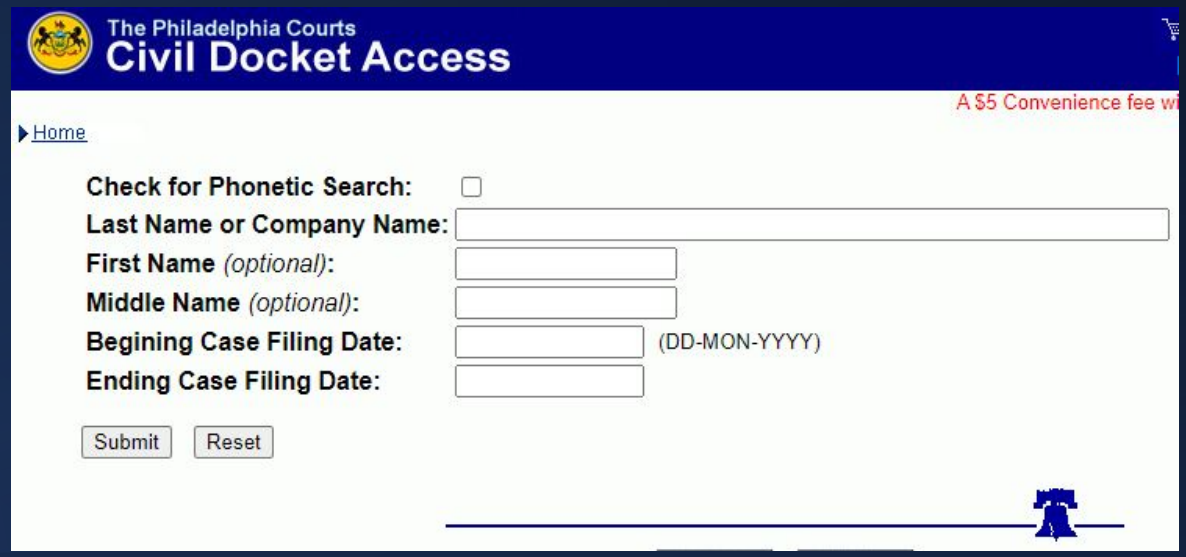
ED Provider Notes (continued)

ED Provider Notes by [redacted], MD at [redacted] [redacted] (continued)

Gastrointestinal: Negative for abdominal pain.
Genitourinary: Negative for dysuria.
Musculoskeletal: Positive for injury.
Skin: Negative for cellulitis.
Neurologic: Negative for focal weakness.
Psychiatric: Positive for drug or alcohol abuse.
All other systems reviewed and pertaining to this visit are negative,

Getting the Whole History

i. Request Prison medical records from prior incarceration if applicable
ii. Subpoena PCP records
iii. Searching dockets for prior slip & falls or other injury lawsuits

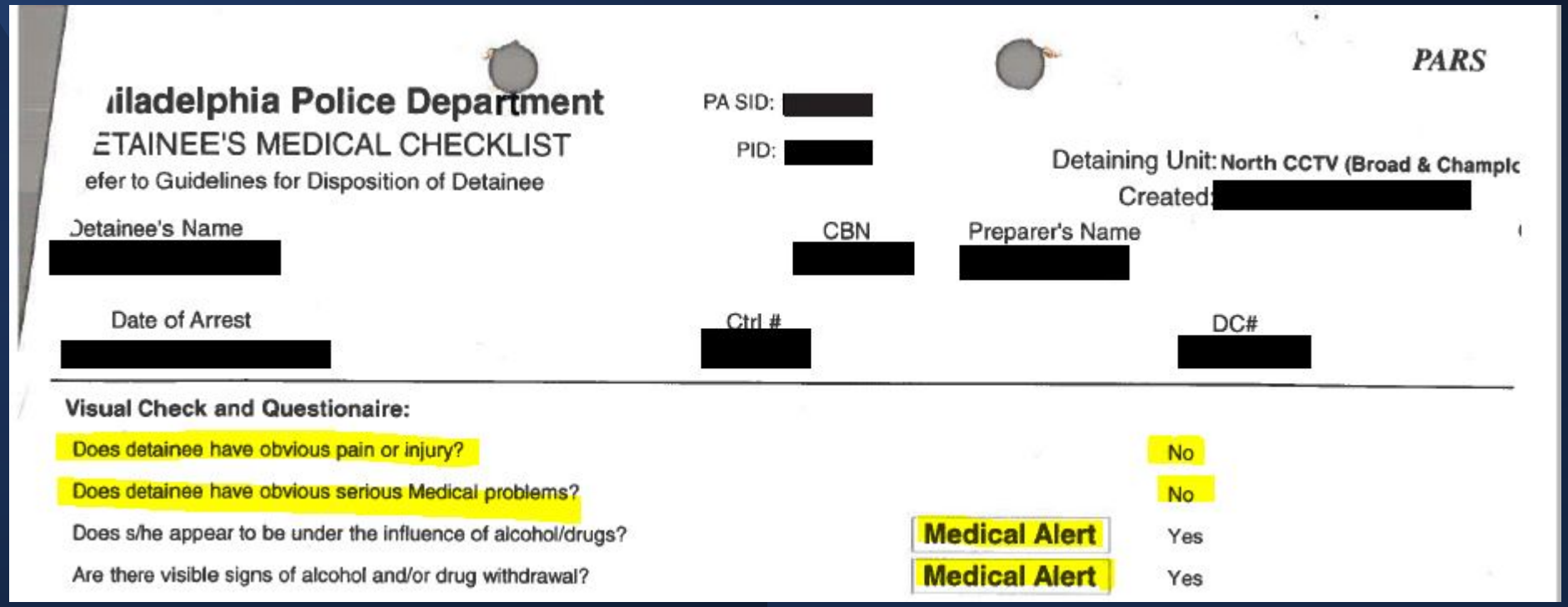


Creating a Trial Theme: Objective Storytelling Via Records & Lowering the Temperature

A Recent Trial Theme: Plaintiff Raising the Stakes

But Records Don’t Lie

Record #1 – Date of Incident



PARS

ıiladelphia Police Department

ETAINEE'S MEDICAL CHECKLIST

efer to Guidelines for Disposition of Detainee

PA SID: [redacted]

PID: [redacted]

Detaining Unit: North CCTV (Broad & Champlc

Created: [redacted]

Detainee's Name [redacted]

CBN [redacted]

Preparer's Name [redacted]

Date of Arrest [redacted]

Ctrl # [redacted]

DC# [redacted]

Visual Check and Questionaire:

Does detainee have obvious pain or injury?		No
Does detainee have obvious serious Medical problems?		No
Does s/he appear to be under the influence of alcohol/drugs?	Medical Alert	Yes
Are there visible signs of alcohol and/or drug withdrawal?	Medical Alert	Yes

Record #2 – Prison Sick Calls

Philadelphia Department of Prisons

Sick Call Request

Inmate [redacted]

Inmate PF Number [redacted]

Date 9-27-17

Facility CFCF

Housing Location B-1-4

Reason for Request:

NEED AN XRAY ON MY RIBS ON THE RIGHT SIDE

Philadelphia Department of Prisons

Sick Call Request

[redacted]

Date 9/28/17

Facility CFCF

Housing Location B1-4

Inmate [redacted]

Reason for Request:

I NEED AN X-RAY ON MY RIGHT SIDE RIB'S — BECAUSE THE COP'S BEAT ME UP ON THE 9/26/17 AND THEY HURT LIKE HELL!!

Record #3 – Prison Medical Notes

Progress Notes

PID: [redacted] **Intake:** [redacted]
Facility Code: CFCF **Housing Area:** ,D1POD1,MOR-3,02
Patient: [redacted]
DOB [redacted] **Age:** [redacted] **Sex:** Male
Phone:
Address: [redacted]

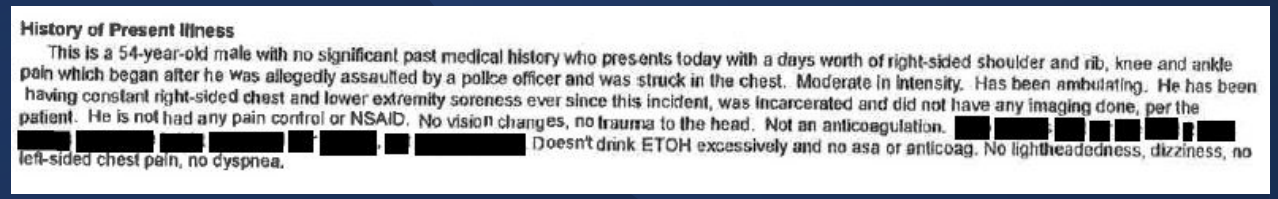
Provider: CMO @CFCF
[redacted]

Subjective:

Chief Complaints:
1. Patient c/o rib pain from arrest and requesting an x-ray.

HPI:
(NET15) Musculoskeletal:
(NET15) Musculoskeletal Subjective
Date seen *10/02/2017*
Location seen? *Sick Call*
Chronic Care Clinic *No*
Chief complaint *pt. c/o right side rib pain from arrest*

Record #4 – First Hospital Post-Release



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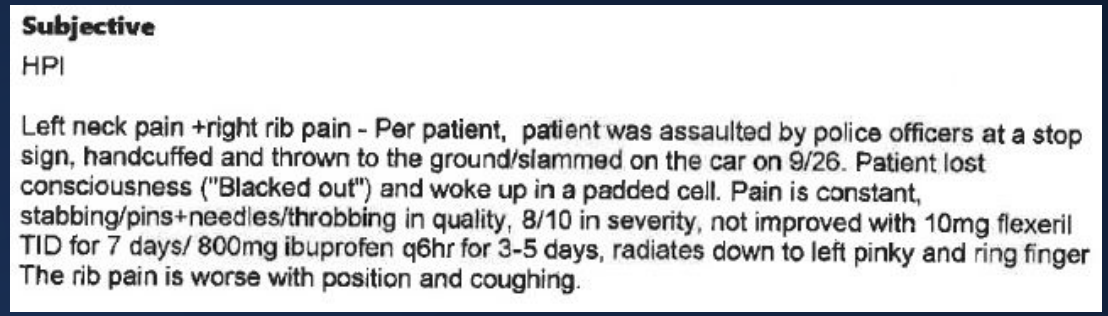
Right-sided shoulder and rib pain – no head pain or trauma.

Struck in the chest.

Record #5 – Second Hospital Post-Release



Subjective

HPI

Left neck pain +right rib pain - Per patient, patient was assaulted by police officers at a stop sign, handcuffed and thrown to the ground/slammed on the car on 9/26. Patient lost consciousness ("Blacked out") and woke up in a padded cell. Pain is constant, stabbing/pins+needles/throbbing in quality, 8/10 in severity, not improved with 10mg flexeril TID for 7 days/ 800mg ibuprofen q6hr for 3-5 days, radiates down to left pinky and ring finger The rib pain is worse with position and coughing.

Left neck pain and LEFT arm pain.

Claimed LOC.

Padded Cell & Stop Sign.

Record #5 – X-Ray Ribs

First Hospital Diagnostics

Patient: [redacted]
MRN: [redacted]
Account #: [redacted]
Service Code: EOP ER OUTPATIENT
Room #: **Bed #:**

Adm Date: 10/4/2017
Attending: [redacted]
Primary Care: UNKNOWN PHY,PRIMARY CARE
DOB/Sex: [redacted] Male

Diagnostic Radiology

Accession	Exam Date/Time	Exam	Ordering Physician	Patient Age at Exam
[redacted]	10/4/2017 13:37 EDT	XR Ribs w PA Chest Right Min 3 V	[redacted]	[redacted]

Report
PROCEDURE: XR Ribs w PA Chest Right Min 3 V
TECHNIQUE: Seven views of the chest and right sided ribs

PROVIDED INDICATION: Chest Trauma
ADDITIONAL INFORMATION: Injury with right sided chest and rib pain.

COMPARISON: 08/17/2017 chest x-ray

FINDINGS:
The cardiomediastinal silhouette is within normal limits.
The lungs are clear. No pneumothorax.
No displaced rib fractures are identified.

IMPRESSION: Unremarkable right rib series.

***** Final *****

When Records…Are Not Helpful

Working With What You've Got

DUI Arrest Results in an Elbow Break



DIAGNOSIS (ICD-9-CM)
FINAL: PRIMARY: **alcohol intoxication**, ADDITIONAL: **left olecronan fracture**.

Using Experts in 1983 Cases
FRCP 26(a)(2)

(B) Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them;
(ii) the facts or data considered by the witness in forming them;
(iii) any exhibits that will be used to summarize or support them;
(iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;
(v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
(vi) a statement of the compensation to be paid for the study and testimony in the case.