

Special Feature

Should medical accidents be judged in criminal court?—Establishing a new patient safety system in Japan

The Case of Fukushima Prefectural Ono Hospital From the standpoint of the person concerned

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Introduction

First of all, I would like to express my deepest condolences to the family of the patient that died, and offer my sincerest prayer for her soul.

I would also like to express my sincere thanks to medical association members and other people throughout Japan and the world for their support and assistance from the time of my arrest and detainment, through the pretrial arrangement proceeding, to the trial and a judgment. Furthermore, I did not know how to express my immense gratitude for this tremendous support and assistance, and so I deeply apologize for my delay in thanking everyone.

I am grateful to be able to say that three years have passed since I returned to clinical practice. Although it took a while for my clinical intuition, or sense, to return, today I am hard at work practicing community perinatal care.

Although I am not good as public speaking, the late Professor Akira Sato would have advised me to go and talk about the incident as some time has passed, and so here I am. This is the first time I have spoken about my experience in the case of Fukushima Prefectural Ono Hospital. Today I have been given the theme “Trust in Medicine: From the standpoint of the person concerned,” but I would like to veer away slightly from the theme and speak about my situation and feelings at the time as the person concerned. Since it is impossible for me to talk entirely about the situation and my feelings, I will focus on the

time that I was detained. To be honest, this is a time that I really do not wish to remember.

Process Leading From the Occurrence of the Incident to My Detention

I began working in the Department of Obstetrics and Gynecology at the Fukushima Prefectural Ono Hospital in April 2004. Apart from one weekend per month, I was on call every day, but I found the work satisfying. On December 17, 2004, a patient that I was operating on died during a cesarean section. As her attending physician, this was an agonizing ordeal.

In March 2005, I was shown the prefecture’s medical accident investigation report by the hospital before it was released. At that time I said to the hospital, “If this is what the report says, I’ll be arrested.” but I was told that, “The report was written this way so that the patient’s family could receive compensation.”

After this, the police questioned me several times, and the police contacted hospital administration to tell me to be at home on February 18, 2006 (Saturday) as they would conduct a search of my home on that day. Just in case I requested back-up for half a day from the university medical office. Following the search of my home, I was told that the police wanted to question me at the police station; they sat me in the middle of the back seat of an ordinary car and took me to the Tomioka Police Station in the neighboring town. After I got out of the car, I called the associate

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Please note that quotes and dialogues are unofficially translated into English for the purpose of this paper.

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professor at the university medical office from the car park, reporting that, “The police said they wanted to question me and brought me here.” The minute I sat down in the interview room, the warrant for my arrest was read to me and I was arrested and handcuffed and a rope tied around my waist. I said to the police, “If you arrest me for this case, it will be devastating for the medical community,” but of course they ignored me. I wanted to call the hospital and check on my patients that were hospitalized and on the back-up for the following week’s outpatient care, but I was told, “No more telephone calls.” I asked the police to contact the hospital and the university medical office and tell them that I had been arrested, but I do not know if they did actually did this.

While I was detained, I was interrogated by prosecutors, and this interrogation was truly mentally painful experience. I felt that my life had been shred.

Guards lent me newspapers to read, but any articles about incidents in the area under the jurisdiction of the Tomioka Police Station were blacked out with marker pen. For people who had been arrested and detained the previous day, the articles of less than ten lines had been blacked out, but in my case articles had been completely cut out from the first page to about the third page, and the paper was in ribbons. Sometimes there was no front page at all, and I felt that the response to my case must have been huge.

Furthermore, while I was being detained, lawyers came to visit me everyday, but the police said that, “Lawyers come one after the other looking for money, so be careful.” Although usually lawyers apparently visit once every one or two weeks, in my case lawyers came every day from Iwaki City and Tokyo. I heard then that Professor Akira Sato and the Associate Professor had kindly approached these lawyers, who had made time in their busy schedules to come to out-of-the-way Tomioka Town so that I would not be anxious.

Situation During Detention

During my detention, I was not called by my name, of course, but by a number. I was “Number 7,” and I thought it was not a bad number to be assigned. For about four or five days I was called by this number, but for some reason along the

way the police started calling me *sensei* (“doctor”). I hardly ever saw any of the other detainees, and a few greetings were only exchanged in the mornings and evening when we were either laying out or rolling up our *futon* mattresses. We shared an electric razor. The cup I used for brushing my teeth had the number “7” written on it and was made of Styrofoam. Hot water was poured into the same cup at mealtimes, I used it. I could have a bath three times a week and wash my clothes every second day, and I folded my own washing.

My lawyers advised me that I should “keep a record of what I say, and also keep various records of what the police asked about,” and so I borrowed writing materials from the guard. However, the pen I was lent was a ballpoint pen with the end of the plastic grip rounded off and a pen tip that only came out 2 or 3 mm so that you could not write with the pen slanted, it had to be upright to write with—in other words, it was a so-called “suicide-prevention” pen. At the time I thought, “Strange pens like this do exist; the police are even concerned about things like this.”

Sometimes there were four detained persons in a room, but in my case I was alone the entire time except for one day, when I was with another person. The room was right in front of the guard’s station, so it was as if I were being watched all the time, without a change of rooms. In other rooms there was a white plastic board over the metal bars to prevent cold, but because my room had to be watched constantly it was always cold. When I was indicted and released from detention, the guards told me that they had had orders from the top to “watch very carefully so that he does not commit suicide.” Since it was a cold time of year, I wore a heavy hooded jacket over a sweat suit, but the strings on the hood of the jacket and sweat-suit pants were taken away to prevent me from committing suicide.

Feelings About the Time Between the Beginning of the Trial and My Being Found Not Guilty

I was indicted on March 10, 2006 and released after 14 days of detention. A defense council was put together, and they told me that, “You may have a long battle ahead of several years, perhaps even several decades—prepare yourself.”

Through the defense counsel, the prefecture made me choose whether to take indictment leave or work at another prefectural hospital, but due to the possibility that working in another hospital would violate my conditions for bail, I had to choose to take indictment leave. Consequently, I was not able to practice medicine at all until the trial ended.

During the trial I was very anxious and was truly worried about how long it would go on for. I thought, "If this situation continues, I will never be able to go back to working as an ob/gyn in a clinical setting." Also, the defense counsel said to me, "You will definitely be found not guilty, so please do not commit suicide." I remember being a bit shocked by that. Looking back, these two-and-a-half years were very long, with things happening one after the other that I had never experienced before; the situation felt unreal, as if I were living in an entirely different world. I was relieved when the court found me not guilty.

Conclusion

Finally, I would like to say that I was only able to fight through this difficult trial because of the people who supported me. I am especially grateful to my supervising professor, the late Dr. Akira Sato, Professor Emeritus of Obstetrics and Gynecology at the Fukushima Medical University, who truly went out on a limb to protect me. I am unable to express in words the depth of my gratitude to Professor Sato.

The Fukushima Prefectural Association of Obstetricians and Gynecologists and the Fukushima Medical Association supported me in various ways, and I was moved by the support given to me by local physicians, both younger and older than me, and I am truly grateful for the generosity of all these people.

Furthermore, I would also like to thank the physicians and other medical professionals throughout the country who supported me in various ways via the Internet. The support of these physicians sustained my spirit.

Last but by no means least, I would like to express my heartfelt thanks to lawyer Keiichi Hiraiwa and the other members of the defense counsel that agree to take on my case as well as Dr. Rintaro Sawa, who visited me everyday as the special counsel, appearing in court, supporting and encouraging me and giving me courage; Dr. Masahiro Nakayama of the Osaka Medical Center and Research Institute for Maternal and Child Health, Kunihiro Okamura of the KKR Tohoku Kosai Hospital Director, and Tsuyomu Ikenoue of the University of Miyazaki Hospital Director, who testified in court on my behalf; the Japan Medical Association, which supported me throughout the trial; various societies and associations, the physicians and staff of the Japan Medical Association Research Institute; members of various municipal medical associations; and former Chairperson of the Executive Board of the Japan Society of Obstetrics and Gynecology, Yasunori Yoshimura, and the many other physicians who supported me.