

# Release of Information and Belongings to Law Enforcement

## 1. Introduction

This policy describes circumstances and procedures for releasing Personal Information or belongings of patients and residents to the police and other Law Enforcement Agencies.

While Providence Health Care (PHC) endeavours to cooperate with Law Enforcement Agencies as much as possible, it must do so within the confines of its obligations regarding patient confidentiality.

### 1.1. Purpose

This policy aims to balance the need to protect the trust and privacy of PHC patients and residents with the need to cooperate with Law Enforcement Agencies as authorized or required by law, in the interests of public safety.

### 1.2. Scope

This policy applies to all PHC [Staff](#) and all PHC sites, departments, units and programs.

### 1.3. Exceptions

This policy does not govern the following:

- The search of inpatient rooms and/or belongings by Staff for purposes of ensuring a safe environment for the delivery of patient care. (Refer to [Search of Inpatient Rooms and/or Belongings: Inpatients at Mount St. Joseph's and St. Paul's Hospitals](#));
- The possession of alcohol and/or personal drug supply by patients or visitors (refer to [Philosophy of Care for Patients and Residents Who Use Substances](#));
- The reporting to police if a patient presents with what appears to be a gunshot or stab wound. (Refer to [Gunshot and Stab Wound Reporting](#));
- Release of Specimens to the Coroner (refer to section 2.19 of this policy)

## 2. Policy

PHC will only disclose personal information to Law Enforcement Agencies where authorized or required by law.

If a member of Staff is unclear as to whether PHC has the authority to release information in any situation, they should contact the Information Access and Privacy Office or Risk Management.

## 2.1. Court Orders, Search Warrants, Subpoenas and other Demands for Production

PHC must release a patient or resident's personal information that is necessary to satisfy our obligations under the law. These requests for information generally come in the form of a court order, warrant, subpoena or other legal document. Staff will release only the records, information or property specified in the demand.

1. Patient or Resident records must be specified in the court order. Refer any legal documents requesting Health Records to Health Records for processing.
2. Other Legal documents served, for any purpose other than seeking to obtain personal information, should be referred to Risk Management. Refer to Legal Documents: Receipt and Disposition of Legal Documents Served at Providence Health Care.

### **Privacy Flags – e.g. No Visitors Flag or VIP Flag:**

Having a privacy flag on a record does not override court orders, warrants, or other legal obligations to disclose information.

### **Documentation:**

- Place the legal document on patient's chart; and
- Document the date of release; to whom the information was released; and a description of information released.

## 2.2. Reporting Required by Law

PHC will report patient or resident information to Law Enforcement where law in Canada or BC requires disclosure. Examples:

- If there is a risk of significant harm to patients, residents, the public or Staff;
- If there are facts and circumstances supporting a belief that a child (a person under the age of 19) needs protection, report as required under the *Child, Family and Community Service Act*, section 14. Staff can also refer to the "Abuse" policy and associated Guideline "Child Abuse and Neglect: Duty to Report";
- If there are facts and circumstances supporting a belief that a criminal offense has been committed against a vulnerable adult, report as required under the *Adult Guardianship Act*, section 50 (reports made by designated Social Worker);
- Gunshot or stab wound.

## 2.3. Disclosure of Personal Information by Consent

Staff may disclose a patient or resident's personal information to the police, where the patient or resident has consented in an informed way to the disclosure. The consent should be specific to the personal information to be disclosed.

**Documentation:** Document the patient's consent in chart, e.g. patient consented to be interviewed by police.

#### 2.4. Disclosure of Personal Information to Assist in a Specific Law Enforcement Investigation

Staff may disclose patient personal information to Law Enforcement to assist in a Specific Law Enforcement Investigation, if all of the following apply:

- it can be determined that the requester is bona fide (e.g. name and badge number are required);
- there is a specific law enforcement investigation going on (file or investigation number required);
- the police provide adequate reason why the usual process of warrant or court order is not reasonable in the circumstances.

Then only disclose the specific information required for the investigation.

Examples include:

##### **Law enforcement agency request for patient status (e.g. dead, critical, stable)**

- Staff may release the medical status of an individual who has been brought to the facility from an accident or crime scene

##### **Police seeking to locate a suspect or victim**

- Staff may confirm whether a specified individual has recently been admitted to or treated at a PHC facility, and the individual's location if currently in a PHC facility.
- Staff may also provide location or contact information for a patient or resident not currently in a PHC facility to assist in specific law enforcement investigation.

**Documentation:** Complete PHC form: *Request by Law Enforcement for Release of Information* and place on patient's chart.

#### 2.5. Disclosure of Personal Information to Assist the Independent Investigations Office of BC (IIO) with a Specific Investigation

The Independent Investigations Office of BC is mandated to conduct investigations into police-related incidents of death or serious harm in order to determine whether or not an officer may have committed an offence. The IIO must determine the nature and extent of injuries sustained and prognosis for recovery.

Staff may disclose patient personal information to the IIO to assist in a Specific Investigation, if all of the following apply:

- the request is in writing;
- it can be determined that the requester is bona fide (e.g. an official letter from the IIO); and
- there is a specific investigation going on (file or investigation number required).

Then, only release the amount of information required for the IIO to determine the nature and extent of injuries sustained.

**Documentation:** Place the request letter/email on the patient's chart and document the date and a summary of the information released.

## 2.6. Requests by Police for Blood Alcohol Samples

Staff will comply with a police demand for blood alcohol sample to be collected if:

- The patient provides consent, or
- The police obtain a warrant or court order.

Police should be able to obtain a 'blood warrant' 24/7; however, in the rare circumstance that a judge or justice of the peace is not available (e.g. Christmas day), refer to Risk Management, the Leader on Call (LOC), or the Privacy Office.

If the patient refuses to comply with the demand, and the Staff member feels uncomfortable or unsafe attempting to collect blood under an Order, the Staff member or their manager should contact Risk Management, the LOC or the Privacy Office.

If there is any doubt about the patient's capability for giving consent, a physician will make the determination.

Staff will ensure that collecting the sample will not interfere with the provision of any primary care being undertaken at the time of the demand.

Any person who in the normal course of their role take blood samples will collect the sample in accordance with police protocols.

Refer all requests by police or the coroner for samples that have been previously collected to the lab as per section 2.19 of this policy.

**Documentation:**

**Patient consents:** Complete PHC form: *Request by Law Enforcement for Release of Information* and place on patient's chart.

**A legal document received:** Place the legal document on patient's chart and document the date and the police officers name and badge number.

## 2.7. Notification of Discharge or Elopement

In general, and unless the patient consents or compelling circumstances exist, Staff should only notify police of a patient's discharge or elopement from a PHC facility in order to comply with a court order or the patient is certified and the Director of Psychiatry or a delegate completes a Director's Warrant under the Mental Health Act.

If Staff believe that the patient or resident poses a significant risk of harm to any individual at the time of discharge, they should use their discretion to notify the police.

Staff may confirm, in response to police conducting a specific law enforcement investigation, the current status respecting a patient's discharge from a PHC facility.

For a police request to receive notification on discharge or elopement, Staff must have approval from Risk Management or the Information Access & Privacy Office and have confirmation from a PHC Leader that a process is in place to provide notification.

### Documentation:

- **If information is released in absence of a court order:** Complete PHC form: *Request by Law Enforcement for Release of Information* and place on patient's chart.
- **If a Court Order is received:** Place the Court Order on patient's chart. Document the date of release; to whom the information was released; and a description of information released.

## 2.8 Police Seeking to Arrest Suspect in a PHC Facility

Staff will allow police access to arrest a patient, resident or their visitor or family member unless access would interfere with a patient's treatment or unreasonably disrupt the activities of the facility.

**Documentation:** Document details in the patients chart.

## 2.9 Requests by Police to Interview a Patient or Family Member

Police may ask to interview a patient or resident in a PHC facility or a visitor or family member who is either a suspect or a victim in a law enforcement matter. Police do not require a search warrant or production order to interview, but require the individual's consent.

Where appropriate, Staff may approach the individual to ask their consent to allow police to speak to them. If the individual agrees or where otherwise appropriate, Staff may allow police access to the individual to request an interview.

**Documentation:** If the patient or resident consents to being interviewed, document the consent in their chart.

## 2.10 Request by Police to Interview Staff or Obtain Statement

Police may ask to interview Staff or ask Staff to provide a written statement about a law enforcement matter involving a patient or resident where Staff have witnessed an event or been involved in the matter. Police do not require a search warrant or production order if information is sought to assist in a specific law enforcement investigation.

Staff may answer questions or give a statement describing the events they witnessed, and may ask to receive a copy of their statement.

## 2.11 Disclosure of Personal Information to Notify Next of Kin

If a patient is deceased, or unconscious, unlikely to regain consciousness, and unattended, Staff may disclose personal information to the police so that they may contact the next of kin or friend.

**Documentation:** Make a notation on the chart indicating the disclosure and whom the information was disclosed to.

## 2.12 Disclosure of Personal Information in Compelling Circumstances

Staff may disclose personal information to law enforcement where compelling circumstances exist that affect the health or safety of any person. Staff may only disclose the information necessary to provide warning or to avert the risk.

Examples of compelling circumstances include, but are not limited to:

- An intent expressed by the patient or resident, or an honestly held belief by Staff, that the patient may cause serious harm to self or others, such as specific threats of assault or death; or
- Patient or resident who is incapable of driving and indicates intention to drive.

**Documentation:** Document the following information in the patient's chart; the date of reporting, reason for reporting, to whom the information was reported to; and a description of information released.

## 2.13 Disclosure to Reduce the Risk of Domestic Violence

Staff may only disclose patient or resident personal information to Law Enforcement to reduce the risk that a patient or resident will be a victim of domestic violence, if domestic violence is reasonably likely to occur and with the consent of the patient or resident. Then only disclose the information necessary to provide warning or to avert the risk.

**Documentation:** Document the following information in the patient or resident's chart; the patient's consent, date of reporting, reason for reporting, to whom the information was reported to; and a description of information released.

## 2.14 Reporting a Patient's Disclosure of a Serious or Violent Crime

If a patient discloses to a member of Staff the commission of a serious or violent crime, Staff may report this information to Law Enforcement only to avert an imminent risk of harm to anyone's health or safety.

In most cases, where a serious or violent crime has occurred in the past and is not likely to be repeated, Staff are not authorized to report the crime to Law Enforcement.

**Documentation:** Document the following information in the patient's chart; date of reporting, reason for reporting, to whom the information was reported to; and a description of information released.

## 2.15 Witnessing a Crime or Victim of Crime

Staff will contact security &/or police without delay if they witness a crime in progress. Staff may also make a report to police if they have been assaulted in the course of their duties.

## 2.16 Personal Belongings

Staff will cooperate with a police demand to seize patient or resident belongings. Although it is up to police to determine whether they require a search warrant or production order, generally police should obtain a warrant to search or seize belongings that are stored away. Also refer to Search of Inpatient Rooms and/or Belongings – Inpatients at Mount St. Joseph's and St. Paul's Hospitals (PHC policy).

**Documentation:**

**No warrant received:** Complete form: *Request by Law Enforcement for Release of Information* and place on patient's chart. Document the belongings seized.

**Warrant received:** Place warrant on patient's chart. Document the belongings seized.

## 2.17 Law Enforcement Agencies Requesting Staff-Related Information

During regular office hours (or when the information is not required immediately), forward requests to Human Resources, who will attempt to contact the Staff member before releasing their information. During off-hours, and only if the request is urgent, forward request to Clinical Nurse Leader, Clinical Coordinator or Leader on Call. Reasonable attempts should be made to contact the Staff member before releasing their information. If attempts to reach them are unsuccessful, ensure they are contacted as soon as possible after the release is made.

**Documentation:** In the event information is released; complete form: *Request by Law Enforcement for Release of Information*, and forward to the Leader, Information Access and Privacy.

## 2.18 Subpoenas

**For Staff to Attend as a Witness:** Staff are required by law to comply with subpoenas to attend as a witness in a proceeding. If Staff have been subpoenaed in a proceeding related to a PHC patient or resident, Staff may consult with Risk Management for guidance. Staff may also allow Risk Management to accept the subpoena on behalf of the Staff member.

**Patient/Resident Health Records:** Health records must be specified in a court order. Forward to Health Records for processing.

## 2.19 Requests by Police or Coroner for Blood and/or Other Laboratory Specimens

Refer requestor to the Laboratory who will handle the request according to: *Policy for Release of Specimens to the Coroner or Police (Lab Policy)*.

# 3. Responsibilities

## 3.1 Staff

- In any situation where disclosure to Law Enforcement has been requested or may be required, Staff should consult with their Leader/Manager or the Leader on Call, Risk Management, or the Information Access & Privacy Office, for support and advice before disclosing any information.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Should be able to identify situations where reporting is required by statute and where Staff become aware of such a situation they must act according to this policy.

## 3.2 Clinical Nurse Leader, Clinical Coordinator, Patient Care Manager, Staff member in Charge or Leader on Call

If an issue arises outside business hours or if Risk Management or Information Access & Privacy is not available, the Clinical Nurse Leader, Clinical Coordinator, Patient Care Manager, Staff member in charge, or Leader on Call:

- Provides support and advice to Staff who have received a request for information on matters concerning disclosure to Law Enforcement.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Provides support and advice to Staff who have identified a need to report a matter to Law Enforcement, in accordance with this policy.



### 3.3 Risk Management

- Provides support and advice to Staff who have received a request for information on matters concerning disclosure to Law Enforcement.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Provides support and advice to Staff who have identified a need to report a matter to Law Enforcement, in accordance with this policy.

### 3.4 Information Access & Privacy Office

- Provides support and advice to Staff who have received a request for information on matters concerning disclosure to Law Enforcement.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Provides support and advice to Staff who have identified a need to report a matter to Law Enforcement, in accordance with this policy.

## 4. Compliance

Staff must comply with this policy. If Staff is in a situation where they can not comply, they should contact Risk Management, the Information Access & Privacy Office, their Clinical Nurse Leader, Clinical Coordinator, or Leader on Call, for advice before disclosing any information.

Risk Management and Information Access & Privacy will monitor compliance with this policy.

## 5. Supporting Documents

### 5.1. Related Policies

[Screening Patients and Residents for Abuse](#)

[Philosophy of Care for Patients and Residents Who Use Substances](#)

[Gunshot and Stab Wound Reporting](#)

[Search of Inpatient Rooms and/or Belongings: Inpatients at Mount St. Joseph's and St. Paul's Hospitals](#)

[Legal Documents: Receipt and Disposition of Legal Documents Served at Providence Health Care](#)

### 5.2. Guidelines/Procedures/Forms

Request by Law Enforcement for Release of Information (Form) – this form is found in "FormFast WFI"

[Illicit \(Suspected\) Drugs](#)

[Child Abuse and Neglect: Duty to Report](#)

## 6. Definitions

For purposes of this policy:

**“FIPPA”** means the BC Freedom of Information and Protection of Privacy Act, as amended from time to time.

**“Law Enforcement Agency”** means an agency in Canada with authority to conduct a law enforcement investigation. Agencies with this authority include municipal police departments, RCMP, Canada Border Services Agency, and any other law enforcement or safety agency (e.g. WorkSafe BC, Independent Investigations Office of BC (IIO)).

**“Legal Document”** means any document that has been or will be filed in court, or any document that is generated by the court in a legal proceeding (e.g. court order, subpoena, production order, search warrant, blood warrant).

**“Patients and Residents”** mean all people receiving services from PHC. For ease of language, Clients and Assisted Living Tenants, are not specifically named but are implied in any reference to patient/resident.

**“Personal Information”** means any information about an identifiable individual but does not include business contact information, such as a person’s title, business telephone number, business address, email or fax number.

**“Specific Law Enforcement Investigation”** means a specific law enforcement investigation carried out by police or other Law Enforcement Agencies (refer to form PHC-MR076) that has an investigation file number.

**“Staff”** means all employees (including management and leadership), medical staff members (including physicians, midwives, dentists) and nurse practitioners, residents, fellows and trainees, health care professionals, students, volunteers, contractors, researchers and other service providers engaged by PHC.

## 7. References

### Questions

Contact: Information Access and Privacy Office: [privacy@providencehealth.bc.ca](mailto:privacy@providencehealth.bc.ca)

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