

AF0500 – LAW ENFORCEMENT ACCESS TO CLIENTS & CLIENT INFORMATION

Interior Health would like to recognize and acknowledge the traditional, ancestral, and unceded territories of the Dākelh Dené, Ktunaxa, Nlaka’pamux, Secwépemc, St’át’imc, Syilx, and Tšilhqot’in Nations, where we live, learn, collaborate, and work together.

Interior Health recognizes that diversity in the workplace shapes values, attitudes, expectations, perception of self and others and in turn impacts behaviors in the workplace. The dimensions of a diverse workplace includes the protected characteristics under the human rights code of: race, color, ancestry, place of origin, political belief, religion, marital status, family status, physical disability, mental disability, sex, sexual orientation, gender identity or expression, age, criminal or summary conviction unrelated to employment.

1.0 PURPOSE

To safeguard Client Personal Information during Lawful Investigations, in alignment with the Freedom of Information and Protection of Privacy Act (FIPPA) and other relevant legislation governing the Release of Information.

2.0 DEFINITIONS

TERM	DEFINITION
<i>Client</i>	<i>A person who is receiving, has received, or has requested health care from Interior Health.</i>
<i>Corporate Records</i>	<i>Records as defined in FIPPA but does not include personal health records.</i>
<i>Designated/Delegated Authority</i>	<i>An individual or agency authorized by legislation with powers of investigation, such as, but not limited to the Ministry of Child and Family Development (MCFD) and the Independent Investigations Office (IIO).</i>
<i>Law Enforcement</i>	<i>Any agency with authority to conduct a Lawful Investigation that could lead to criminal charges in Canada.</i>
<i>Lawful Investigation</i>	<i>An active investigation being conducted by any Law Enforcement agency with an assigned case number.</i>
<i>Personal Information</i>	<i>Any information (hard copy, electronic, or verbal) which may be associated with or identifies an individual, except business contact information.</i>
<i>Public Interest</i>	<i>Refers to actions that benefit or could impact many individuals in situations where there is a perceived risk to the health and safety of the environment, the public at large, the Client (self-harm) or any other individual (FIPPA, s.25).</i>

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<i>Production Order</i>	<i>A judicial mandate compelling a third-party that is not under investigation (e.g., IH), but is in possession of information relevant to a Lawful Investigation (e.g., Client health records), to provide specific documents or records. This legal instrument is typically utilized by Law Enforcement to gather evidence pertinent to a case.</i>
<i>Release of Information</i>	<i>To provide Personal Information to Law Enforcement when a request is made.</i>
<i>Reporting of Information</i>	<i>To provide Personal Information to Law Enforcement without a request being made.</i>
<i>Requests for Information</i>	<p>Routine Request: Requests from Law Enforcement personnel with Client consent, a Production Order, Search Warrant, or proof of a Lawful Investigation.</p> <p>Urgent Request: Requests where there is evidence of a compelling requirement to promptly (within 4-6 hours) release Personal Information (e.g., requesting information regarding knowledge of injuries and prognosis to determine nature of charges and/or criminal investigative resources required).</p> <p>Emergent Request: Requests where there is evidence of a compelling and/or life-threatening requirement to immediately release Personal Information (e.g., an unconscious, mortally wounded individual, Release of Information required for location of next of kin, Code Orange, etc.).</p>
<i>Search Warrant</i>	<i>Issued by a Judge or Justice of the Peace and allows authorized persons (such as Law Enforcement) to search premises and collect evidence.</i>
<i>Statutory Duty to Report</i>	<p>When a law requires someone to report an event/incident to Law Enforcement or to provide information to a government body upon request (also see Appendix A). Examples include:</p> <ul style="list-style-type: none"> • Adult Guardianship Act • Child, Family and Community Service Act. • Public Health Act, • Coroners Act, • Gunshot and Stab Wound Disclosure Act, and • Motor Vehicle Act.

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3.0 POLICY

3.1 Law Enforcement Requests for Access to Client Information

IH has a legal obligation to protect Personal Information from unauthorized disclosure. There are circumstances in which IH is compelled by law to release Personal Information, which take precedence over individual privacy rights. It is IH's responsibility to strike a balance between safeguarding individual privacy rights and recognizing the legal authority of Law Enforcement or a Designated/Delegated Authority to collect Personal Information.

The Release of Client Personal Information to Law Enforcement or a Designated/Delegated Authority (as defined above) is only permitted if:

- The Client gives consent related to the current request, **or**
- There is proof of a Lawful Investigation, **or**
- IH is served with a Production Order, Search Warrant, and/or other court order, **or**
- Situational urgency requires Release of Information without formal approval to support an active Lawful Investigation.

3.2 Reporting of Information to Law Enforcement Without a Request

Client Personal Information **must** be reported to Law Enforcement if:

- There is a Statutory Duty to Report (as defined above), **or**
- There is a credible threat of death/serious harm to the Client or third-party, **or**
- It is in the Public Interest. Examples include, but are not limited to:
 - A Client or member of the public threatening to seriously harm, kill or attempt to kill others),
 - Someone driving while their ability is impaired by alcohol or a drug.

3.3 Release of Information to Law Enforcement with a Request

Only release information necessary to meet an obligation under the law, a Production Order, or a warrant. Members of the health care professions, including medical staff and other regulated health professionals, must adhere to their professional standards and codes of ethics when assessing Law Enforcement or Designated/Delegated Authority Requests for Information.

3.4 Law Enforcement Access to Clients

Only permit Law Enforcement or a Designated/Delegated Authority access to a Client if one or more of the following criteria are met:

- The Client has provided consent related to the current request,
- There is proof of a Lawful Investigation,

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- A Production Order, Search Warrant or another lawful instrument is produced, or
- The situation is deemed Emergent in nature (as defined above) and access to the Client is required for immediate investigative purposes.

If physical access to the Client is likely to result in harm to the Client, employees, medical staff, or Law Enforcement (e.g., there is a sterile field in place), access should be deferred until a time when it can be provided safely.

Personal effects of a Client must be turned over to Law Enforcement **if a specific request is made**, either verbally or in-writing, to produce the effects as part of a Lawful Investigation.

If a Client is under Lawful Investigation/arrest/detention by Law Enforcement, the responsible agency has the right to guard the Client's room and restrict access to family, friends and/or any other person(s). Clients who are under Lawful Investigation/arrest/detention by Law Enforcement, wherever possible, should be moved to a private room for the privacy and safety of others.

4.0 PROCEDURES

4.1 Responding to Requests for Client Information

Upon receipt of a request from Law Enforcement or a Designated/Delegated Authority for access to Client Personal Information, employees and medical staff must categorize the request as either Routine, Urgent, or Emergent.

Routine Requests involve consent, a Production Order, or a warrant, and are managed by Health Record Services (acute records) or Freedom of Information (Corporate Records) during regular business hours.

For **Urgent/Emergent Requests**, follow the procedure outlined below:

1. Law Enforcement or Designated/Delegated Authority personnel must fill out the [Client Information/Access Request](#) form, except in **Emergent** cases when verbal requests are acceptable.
2. Accept **verbal requests** only in Emergent cases where there is a compelling need to immediately share Personal Information (e.g., an unconscious or critically injured individual, attempts to contact next of kin, Code Orange, etc.).
3. If the release of Personal Information is **declined**, state the reason for refusal on the Client Information/Access Request form and notify Law Enforcement or a Designated/Delegated Authority.

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If the request is **granted** based on the information available:

1. Determine what information is necessary to release in consultation with Law Enforcement or a Designated/Delegated Authority,
2. Document the nature and type of released Personal Information on the Client Information/Access Request form. Indicate either the number of copied pages or specify if information was released verbally.
3. Proceed with release of the information as outlined.
4. File the original completed Client Information/Access Request form within the Client health record.
5. As a standard practice, consult with the Information Privacy and Freedom of Information office to determine if disclosure notification is required.

NOTE: Healthcare providers are not personally liable for reporting or failing to report/release information pursuant to this policy, provided they are acting in good faith.

Please see [Flowchart](#) for a summary of the procedures.

Please see [Appendix A](#) for examples of when to release Client Information.

4.2 Roles and Responsibilities

- 4.2.1 **Employees and Medical Staff:** Manage or direct Law Enforcement or Designated/Delegated Authority requests for access to Client information, and store supporting documentation in Client files per this policy.
- 4.2.2 **Freedom of Information (FOI):** Responds to Requests for Corporate Records in accordance with FIPPA and acts as a resource for FOI and ROI (Release of Information) issues for internal and external parties.
- 4.2.3 **Health Record Services:** Manages Routine Requests for access to acute Client health records during regular business hours.
- 4.2.4 **Information Privacy:** Provides consultative advice related to the release of Client Personal Information to Law Enforcement or a Designated/Delegated Authority during regular business hours. Where the request appears to be for health or Corporate Records, Information Privacy refers the request to the appropriate team.
- 4.2.5 **Most Responsible Leader/Delegate On-Site:** Responsible for making decisions related to Urgent and Emergent Requests for Law Enforcement or Designated/Delegated Authority access to Clients and Client Personal Information outside of regular hours, per this policy.

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5.0 REFERENCES

1. Interior Health Policy [AK0300 – Claims Management](#)
2. Interior Health Policy [AR0400 – Privacy and Management of Confidential Information](#)
3. Interior Health Policy [AT0100 – Health Records](#)
4. Interior Health [Policy Development Framework](#)
5. Fraser Health Policy - Providing Patient/Resident/Client Information to Law Enforcement Agencies
6. HEMBC FAQ – Code Silver: Active Attacker
7. Island Health policy 1.5.3 - [Release of Patient Information to Law Enforcement Personnel in Urgent or Emergency Situations \(in the Absence of Patient Consent, Court Order or Search Warrant\)](#)
8. Providence Health Care policy B-00-11-10121 - [Release of Information and Belongings to Law Enforcement](#)
9. [Freedom of Information and Protection of Privacy Act of BC](#)
10. British Columbia [Gunshot and Stab Wound Disclosure Act](#)

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APPENDIX A – Examples of Release of Client Information to Law Enforcement or a Designated/Delegated Authority

The following examples are based on situations that have previously arisen; however, this is not an exhaustive list. Individuals receiving/managing a Request for Information must review the information provided by Law Enforcement and record it on the **Client Information/ Access Request form (807324)** in accordance with this policy.

REQUEST	ACTION
Request for Health Records Law Enforcement may request a copy of a suspect's or victim's health record.	A Production Order and/or Search Warrant is required when a suspect's hospital record is requested. Law Enforcement does not require a Production Order and/or Search Warrant if the Client gives informed Consent. A Production Order and/or Search Warrant may not be required in Urgent / Emergent situations.
Request for Information beyond the scope of a Production Order and/or Search Warrant Law Enforcement arrives with a warrant but wish to view lab reports and the Client's entire chart, which goes beyond purview of the Production Order and/or Search Warrant.	Law Enforcement can receive information outlined in the initial document and either return with another Production Order and/or Search Warrant covering the additional request or contact the Health Records department during regular business hours.
Request for Client Information in an Emergency (e.g., Code Orange) Law Enforcement requests information related to Clients involved in a Code Orange event and/or their whereabouts (e.g., in care, not in care, unaccounted for).	Follow the guidance above related to Emergent Requests .
Request for Prognosis or Extent of Injury A Client is unconscious, and Law Enforcement wishes to know the extent of their injuries and/or prognosis.	No Production Order or Search Warrant is required if the request is made to determine the urgency of applying criminal investigative resources and/or to determine the nature of charges or criminal offence.
General Request with a Particular Physical Description Law Enforcement requests information as to whether anyone was admitted in the past few days with a particular physical description and provide details of an offense under Lawful Investigation.	Per FIPPA, Section 33, Law Enforcement should provide more information about the matter under Lawful Investigation to clearly indicate why they are requesting information. Document this on the Client/Information Access Request form. IH may provide a "yes" or "no" response as to whether anyone was admitted but not the Client's name. What if Law Enforcement requests the Client name or other Personal Information? Law Enforcement

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	<p>must provide compelling rationale as to the need for Release of Information without a Production Order and/or Search Warrant.</p> <p>What if there is no compelling rationale for disclosure? In the absence of compelling rationale for disclosure, a Production Order or Search Warrant is required.</p>
<p>Request for Information Regarding a Particular Injury Law Enforcement may request the name of anyone with a suspicious injury (e.g., stab wound) who has been admitted recently.</p>	<p>Law Enforcement may provide information such as, “injuries consistent with...” and information more directed to a particular event, and/or give rationale for the Urgent/Emergent need for disclosure of the information. Document this on the Client/Information Access Request Form.</p> <p>If Law Enforcement does not provide details and are not specific in their Request for Information, information will not be released.</p>
<p>Notification of Discharge or Whereabouts Law Enforcement plans to arrest a Client and have asked employees and/or medical staff to notify them of patient's impending discharge.</p>	<p>Case law has established many precedents supporting IH's duty to assist Law Enforcement. When requested to inform the police of the discharge of a patient, employees and medical staff should notify Protection Services. Protection Services will assess the situation and contact Law Enforcement.</p>
<p>Request for Video Surveillance or Security Records Law Enforcement wishes to obtain a copy of video surveillance or security records (e.g., reports, notes, interviews).</p>	<p>When requested to provide video or security records to Law Enforcement, employees and medical staff should notify Protection Services and/or FOI to assess the situation and follow-up.</p>
<p>Law Enforcement Request to Interview an Adult Client Law Enforcement wishes to interview a competent adult Client (victim, suspect and/or witness) during an active Lawful Investigation.</p>	<p>Unless there are medical reasons that preclude the Client from being interviewed, the care provider will accompany Law Enforcement to the patient's bedside to present their request to interview the Client. Law Enforcement will be given reasonable opportunity to obtain verbal consent from the patient. Once consent is obtained, the care provider may then leave but must document the interaction and the verbal consent in the Client's Health Record. If, for any reason, a Client becomes clinically unstable during the interview process, the care provider may request termination of the interview.</p> <p>What if the Client does not consent to an interview? If Client consent is not obtained, the care provider should document the refusal in the Health Record.</p>

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	<p>What if the Client is arrested? If the Client refuses to be interviewed, Law Enforcement may choose to arrest them. If the Client has been arrested, the care provider will no longer attend except for medical purposes.</p>
<p>Law Enforcement Request to Interview a Youth Client Law Enforcement wishes to interview a competent adult Client (victim, suspect and/or witness) during an active Lawful Investigation.</p>	<p>Follow the guidance outlined for adult Clients. If the Client is under the age of 18, Law Enforcement will ensure that the youth completes the Section 56 Young Offenders Act Form for a Youth Charged with or Suspected of an Offense. Law Enforcement is required to ensure the provisions outlines in the Youth Criminal Justice Act (YCJA) are satisfied when questioning or interviewing youth.</p> <p>What if the Client does not consent to an interview? If Client consent is not obtained, the care provider should document the refusal in the Health Record.</p> <p>What if the Client is arrested? If the Client refuses to be interviewed, Law Enforcement may choose to arrest them. If the Client has been arrested, the care provider will no longer attend except for medical purposes.</p>
<p>Law Enforcement Request to Interview Employees and/or Medical Staff Law Enforcement wishes to interview employees and/or medical staff during a Lawful Investigation.</p>	<p>In Urgent/Emergent situations, employees and medical staff have a duty to assist and will be accessible for interviews with Law Enforcement, bearing in mind that Client care and safety take priority. When possible, Law Enforcement will be referred to the Manager of the work area to assess the nature of the Lawful Investigation.</p> <p>If staff employees and/or medical staff are not on site, the Manager of the work area will notify them of the request for interview by phone before releasing contact information to Law Enforcement.</p>
<p>Reporting Gunshot & Stab Wounds A Client presents in the Emergency Department with gunshot or stab wounds and there is reasonable cause to assume the gunshot or stab wounds are non-accidental in nature.</p>	<p>You must notify Law Enforcement of any injuries that may have been obtained during an illegal act, if you suspect the Client may be in danger, or the presence of the Client may cause a threat to staff and patients in the facility.</p>
<p>For additional assistance in responding to Law Enforcement requests for patient / resident / Client information please contact the Interior Health Information Privacy and FOI Office.</p>	

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