

# Release of Information and Belongings to Law Enforcement

## 1. Introduction

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### *Description*

This policy describes circumstances and procedures for releasing Personal Information or belongings of patients/clients/residents (“Clients”) to Law Enforcement agencies, which are defined as an agency in Canada with authority to conduct a law enforcement investigation. Agencies with this authority include: municipal police departments, RCMP, and any other law enforcement or safety agency (eg. WorkSafeBC).

### *Scope*

This policy applies to all Vancouver Coastal Health Authority (VCH) Staff and all VCH sites, facilities, departments, units and programs.

## 2. Policy

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VCH will balance the need to protect the trust and privacy of Clients with the need to cooperate with Law Enforcement agencies as authorized or required by law, in the interests of public safety.

All issues around release of Client information and belongings to Law Enforcement fall into one of three categories:

1. Mandatory Demands for Production (court orders, search warrants, etc.) – [see section 2.1](#)
2. Requests by Law Enforcement – [see section 2.2](#)
3. Reporting to Law Enforcement (VCH-initiated disclosure) – [see section 2.3](#)

### **2.1. Mandatory Demands for Production (court orders, search warrants, etc.)**

VCH will comply with a Mandatory Demand for production of records, information or property, such as a search warrant, court order or other demand where VCH is required by law to respond (e.g., WorkSafeBC or Coroner’s investigation).

In addition to court orders and search warrants, see [Appendix 1](#) for other types of Mandatory Demands.

#### **2.1.1. Responding to Mandatory Demands**

For Mandatory Demands, “Request by Law Enforcement for Release of Information” form not required.

If Staff receive a Mandatory Demand for information, records or belongings, Staff will take the following steps:

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- (a) Comply with the Mandatory Demand in consultation with the Staff in Charge.
- (b) Staff may contact VCH Client Relations & Risk Management (“Risk Management”), Legal Services or the Information Privacy Office for assistance or advice.
- (c) Release only the records, information or property specified in the demand.
- (d) Document any release of records, information or property in the Client chart, including:
  - a copy of the warrant, production order or demand;
  - date of release;
  - to whom the information was released; and
  - a copy of records or a description of information or property released.

## 2.2. Requests by Law Enforcement

VCH may disclose Client Personal Information to law enforcement upon request for the following purposes:

- (a) to assist in a specific law enforcement investigation, as evidenced by an investigation number; or
- (b) in relation to a person brought to hospital by police under the *Mental Health Act*, on a need-to-know basis, for the following purposes:
  - to assess risk to the person’s own safety or the safety of others;
  - to provide appropriate care, response and service to a person with a mental illness and to those who could reasonably be impacted by the actions of that person; or
  - to protect the health or safety of staff (VCH staff or police staff).

For these types of disclosures, a search warrant, production order or court order is not required.

Requests by Law Enforcement will be documented on the [“Request by Law Enforcement for Release of Information” form](#) in Appendix 2.

### 2.2.1. Responding to Requests by Law Enforcement

If Staff receive a request from Law Enforcement for Client Personal Information, Staff will take the following steps:

- (a) Ask the requestor to complete (or Staff may complete) the [“Request by Law Enforcement for Release of Information” form](#).
- (b) Staff may release the requested information with approval of the Staff in Charge.

- (c) Staff may contact Risk Management, Legal Services or the Information Privacy Office for assistance or advice.
- (d) Mail or email a copy of the form to the Information Privacy Office and retain the original in the Client chart or document the release in the health record.

#### **2.2.2. Police Seeking to Locate a Suspect or Victim**

Staff must follow procedures in section 2.2.1 “Request by Law Enforcement”.

VCH may confirm, in response to police conducting a specific law enforcement investigation, whether a specified individual has recently been admitted to or treated at a VCH facility, and the individual’s location if currently in a VCH facility.

VCH may provide location or contact information for a Client not currently in a VCH facility to assist in a specific law enforcement investigation.

#### **2.2.3. Police Notification on Discharge or Elopement of Client**

For any police request to receive notification on discharge or elopement, Staff must follow procedures in section 2.2.1 “Request by Law Enforcement”.

VCH may agree to notify police of a Client’s discharge or elopement from a VCH facility in response to a request by police conducting a specific law enforcement investigation, where there is confirmation from a VCH manager that a process is in place to provide notification.

In the absence of a request from police, VCH may notify the police of a Client’s discharge or elopement where compelling circumstances exist (see section 2.3.4 “Compelling Circumstances” and procedures in section 2.3.1 “Reporting to Law Enforcement”).

VCH must notify police if there is a risk of significant harm to Clients, the public or other Staff (see Appendix 3 and procedures in section 2.3.1 “Reporting to Law Enforcement”).

#### **2.2.4. Police Seeking to Arrest Suspect in a VCH facility**

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

In all cases where police are seeking to make an arrest, Staff should consult with the Staff in Charge. Staff may contact Risk Management, Legal Services or the Information Privacy Office for assistance or advice.

#### **2.2.5. Request by police to interview a Client or family member**

Police may ask to interview a Client in a VCH 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.

For such requests Staff should consult with the Staff in Charge. Staff may contact Risk Management, Legal Services or the Information Privacy Office for assistance or advice.

Unless clinically contraindicated, 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.

#### **2.2.6. Request by police to interview staff or obtain statement**

Staff must follow procedures in section 2.2.1 "Request by Law Enforcement".

Police may ask to interview Staff or ask Staff to provide a written statement about a law enforcement matter involving a Client 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.

### **2.3. *Reporting to Law Enforcement (VCH-initiated disclosure)***

In some situations, VCH will initiate disclosure of Client information to Law Enforcement.

#### **2.3.1. Procedures for Reporting to Law Enforcement (VCH-initiated disclosure)**

(a) Staff may immediately provide necessary information to Law Enforcement in an emergency situation where immediate action is required to prevent risk of harm to the health or safety of any person.

(b) Where time permits, Staff will seek approval from the Staff in Charge in deciding whether to report Client Personal Information to Law Enforcement. Staff may consult with Risk Management, Legal Services, or the Information Privacy Office for assistance or advice. The "Request by Law Enforcement for Release of Information" form is not required, as the disclosure is initiated by VCH.

(c) If Staff disclose information to Law Enforcement because of compelling circumstances, Staff will notify the Information Privacy Office of the disclosure.

(d) Staff will document any release of records, information or property in the Client chart, including date of reporting, reason for reporting, to whom the information was reported; and a copy of records or a description of information released.

#### **2.3.2. Reporting Required by Law**

VCH will report Client Personal Information to Law Enforcement where law in Canada or BC requires disclosure (eg. gunshot or stab wound, risk of significant harm to Clients, the public or other Staff).

Staff must follow procedures in section 2.3.1 “Reporting to Law Enforcement”.

For situations in which reporting to Law Enforcement is required by law see Appendix 3.

### 2.3.3. To Notify Next of Kin

If a Client is unconscious or deceased, VCH may disclose Personal Information to the police so that they may contact the next of kin or friend.

### 2.3.4. Compelling Circumstances

VCH may disclose Client Personal Information to Law Enforcement where compelling circumstances exist that affect the health or safety any person. VCH may disclose information necessary to provide warning or to avert the risk.

Staff must follow procedures in section 2.3.1 “Reporting to Law Enforcement”.

Examples of compelling circumstances include:

- an intent expressed by the Client, which Staff believe, to cause serious harm to self or others, such as specific threats of assault or death; and
- a Client who is incapable of driving and indicates intention to drive.

### 2.3.5. To Reduce the Risk of Domestic Violence

VCH may disclose Client Personal Information to Law Enforcement to reduce the risk that anyone will be a victim of domestic violence, if Staff believe that domestic violence is reasonably likely to occur. Staff may disclose information necessary to provide warning or to avert the risk.

Staff must follow procedures in section 2.3.1 “Reporting to Law Enforcement”.

### 2.3.6. Disclosure of a Crime

If a Client discloses to Staff that the Client has in the past committed a crime, Staff may report this information to Law Enforcement only to avert an imminent risk of harm to anyone’s health or safety.

Staff must follow procedures in section 2.3.1 “Reporting to Law Enforcement”.

## 2.4. **Subpoenas**

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 VCH Client, Staff may consult with Risk Management or Legal Services for guidance.

Client health records must be obtained separately through a court order provided to Health Information Management (Health Records).

## **2.5. Witnessing a Crime or Victim of Crime**

Staff may make a report to police if they have been witness to or victim of a crime involving a Client. Staff will seek police or security support without delay if they witness a crime in progress that could affect anyone's safety. See 2.2.6 for Staff providing statements to police.

## **2.6. "Enhanced Information Security", "No Information" or "Do Not Announce" Clients**

Designation of a Client as "Enhanced Information Security", "No Information" or "Do Not Announce" does not override court orders, warrants, or other legal obligations to disclose information.

## **2.7. Client Belongings**

Staff will cooperate with a police demand to seize Client 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.

For such requests Staff should consult with the Staff in Charge. Staff may contact Risk Management, Legal Services or the Information Privacy Office for assistance or advice. Staff should document any seizure of belongings in the Client chart.

## **2.8. Blood Demand by Police**

Refer to [Release of Blood Draw from Patients to Police Policy](#) for any police requests related to a blood demand.

## **2.9. Responsibilities**

### **2.9.1. Staff**

- (a) In any situation where disclosure to Law Enforcement has been requested or may be required, Staff should consult with the Staff in Charge. Staff may contact Risk Management, Legal Services or the Information Privacy Office for assistance or advice.
- (b) If Staff receive a Mandatory Demand for production, Staff must follow procedures in section 2.1.1 "Mandatory Demand for Production".
- (c) If Staff receive a request from Law Enforcement for Client Personal Information, Staff must follow procedures in section 2.2.1 "Request by Law Enforcement".
- (d) Staff must be able to identify situations where reporting is required by law. Where Staff become aware of such a situation they must follow the procedures in section 2.3.1 "Reporting to Law Enforcement".

### 2.9.2. Risk Management

Risk Management provides support and advice to Staff on matters concerning disclosure to Law Enforcement, subpoenas, police arrests and police requests to interview.

### 2.9.3. Legal Services, Information Privacy Office

- (a) Legal Services and the Information Privacy Office provide support and advice to Risk Management and to Staff on matters concerning disclosure to Law Enforcement and other legal or privacy matters.
- (b) The Information Privacy Office receives a copy of the “Request by Law Enforcement for Release of Information” form.
- (c) The Information Privacy Office is notified when information is disclosed to Law Enforcement because of compelling circumstances.

### 2.9.4. Staff in Charge

- (a) May make decisions on matters concerning disclosure to Law Enforcement, subpoenas, police arrests and police requests to interview.
- (b) Provides support and advice to Staff who have received a Mandatory Demand for production, in accordance with procedures in section 2.1.1 “Mandatory Demand for Production”.
- (c) May approve or deny a request by Law Enforcement, in accordance with the procedures in section 2.2.1 “Request by Law Enforcement”
- (d) May approve a report that is made to Law Enforcement, in accordance with procedures in section 2.3.1 “Reporting to Law Enforcement”.

## 2.10. **Compliance**

Failure to comply with this Policy may result in disciplinary action including, but not limited to, the termination of employment, the termination of the contractual agreement, loss of computing privileges, loss of privileges as a student placement or volunteer role, prosecution and restitution for damages.

VCH will not take disciplinary action against a Staff member who, acting in good faith and upon a reasonable belief, discloses Personal Information necessary to provide warning or to avert risk where immediate action is required to prevent harm to any person’s health or safety.

## 3. **References**

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### ***Tools, Forms and Guidelines***

- [“Request by Law Enforcement for Release of Information” Form](#)
- [Quick Reference Guide: Disclosure of Personal Information to Law Enforcement](#)

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**Related Policies**

- [Gunshot and Stab Wound Reporting](#)
- [Release of Blood Draw from Patients to Police](#)
- Weapons in the Workplace

**Keywords**

Police, warrant, court order, production order, subpoena, release of information, law enforcement, personal information, privacy, belongings, investigation

**Definitions**

“**Clients**” means all patients, clients and residents who receive care or services from VCH.

“**FIPPA**” means the *Freedom of Information and Protection of Privacy Act*.

“**Law Enforcement**” means an agency in Canada with authority to conduct a law enforcement investigation, including municipal police departments, RCMP, and any other law enforcement or safety agency. For examples of agencies with authority to conduct law enforcement investigations see [“Request by Law Enforcement for Release of Information” form](#).

“**Mandatory Demand**” means a demand for production of information, records, property or access which must by law be complied with. See [Appendix 1](#) for a list of Mandatory Demands.

“**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 facsimile 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 and other service providers engaged by VCH.

“**Staff in Charge**” means the person in charge at the unit, ward, clinic, facility or other VCH site at the time of the request. Examples of Staff in Charge include Charge Nurse, team leader, manager, coordinator or supervisor.

Issued by:			
Name:	<u>Glen Copping</u>	Title:	<u>Chief Financial Officer &amp; VP Systems Development and Performance</u>
		Date:	<u>Feb 24, 2014</u>
Signature of issuing official			

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## Appendix 1 - Mandatory Demands for Production

Agency	Authority to demand	Proof of authority
<b>Community Care Facilities Licensing</b>  <i>Community Care and Assisted Living Act, section 9</i>	Director of licensing or a medical health officer may require the community care facility to produce relevant records	Written request with letter of delegation or production of credentials to confirm identity
<b>Coroner</b>  <i>Coroners Act, section 11</i>	Coroner may inspect, copy and seize any records relating to the deceased person or the circumstances of the death that the coroner has reason to believe are relevant to the investigation – person receiving request must promptly comply	Written request or production of credentials to confirm identity
<b>ICBC</b>  <i>Insurance (Vehicle) Act, section 28</i>	Where a person is injured in a motor vehicle accident in BC, ICBC may require a report of injuries, diagnosis, treatment and prognosis.	Request from ICBC for completion of a CL19 Medical Report (But refer to Health Records any other ICBC request for copies of health records)
<b>Ministry of Children and Family Development</b>  <i>Child, Family and Community Service Act, section 96</i>	Director of Child Protection (or delegate) has the right to any information of a public body necessary to exercise his or her powers / duties under the Act	Written request with letter of delegation or production of credentials to confirm identity
<b>Representative for Children and Youth</b>  <i>Representative for Children and Youth Act, section 10</i>	Representative has the right to any information of a public body necessary to exercise his or her powers / duties under the Act	Written request or production of credentials to confirm identity
<b>WorkSafeBC Inspection or Investigation</b>  <i>Workers Compensation Act, section 179</i>	Broad authority to inspect or investigate in relation to a work safety matter, including: <ul style="list-style-type: none"> <li>- inspect or require production of records</li> <li>- copy or temporarily remove records</li> <li>- question any person</li> <li>- take photographs, etc.</li> </ul>	Written request or production of credentials to confirm identity

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## Appendix 2

 <p align="center">Vancouver Coastal Health Authority</p>	<p align="center">PATIENT LABEL</p>								
<h3>REQUEST BY LAW ENFORCEMENT FOR RELEASE OF INFORMATION</h3>									
<p><b>This form is for requests by Law Enforcement. This form is not required to be completed for mandatory demands for production (eg. court orders, search warrants, WorkSafeBC, Coroner)</b></p>									
<p><b>Requestor Information</b></p> <table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"><input type="checkbox"/> Vancouver Police Dept</td> <td style="width:50%; border: none;"><input type="checkbox"/> West Vancouver Police Dept</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> RCMP</td> <td style="border: none;"><input type="checkbox"/> Independent Investigations Office of BC (IIO)</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Canada Border Services Agency</td> <td style="border: none;"><input type="checkbox"/> Metro Vancouver Transit Police</td> </tr> <tr> <td colspan="2" style="border: none;"><input type="checkbox"/> Other agency in BC or Canada: _____</td> </tr> </table>		<input type="checkbox"/> Vancouver Police Dept	<input type="checkbox"/> West Vancouver Police Dept	<input type="checkbox"/> RCMP	<input type="checkbox"/> Independent Investigations Office of BC (IIO)	<input type="checkbox"/> Canada Border Services Agency	<input type="checkbox"/> Metro Vancouver Transit Police	<input type="checkbox"/> Other agency in BC or Canada: _____	
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Officer Name: _____	Badge / ID #: _____								
Date Submitted: _____	Investigation Number: _____								
Phone: _____	Email: _____								
<p><b>Name / description of patient / client / resident:</b></p> <p>_____</p> <p>_____</p>									
<p><b>Information sought and reasons for request:</b></p> <p>_____</p> <p>_____</p>									
<p><b>Any safety concerns for VCH staff or clients:</b></p> <p>_____</p> <p>_____</p>									
<p><b>Purpose of request (requestor must check ONE ONLY of the boxes below):</b></p> <p><input type="checkbox"/> information is required for a specific law enforcement investigation and is not appropriate to obtain through a court order or search warrant, eg. because of urgency or nature of investigation;</p> <p><b>OR</b></p> <p><input type="checkbox"/> information is requested in relation in relation to a person brought to hospital by police under the <i>Mental Health Act</i> and is to be used only for Care and Safety Purposes (see over for more info)</p>									
<p><b>VCH Staff Approval Procedures:</b></p> <ol style="list-style-type: none"> <li>1. Staff may release the requested information with approval of the Staff in Charge. Staff may contact Risk Management, Legal Services or the Information Privacy Office for assistance or advice.</li> <li>2. If notification is to be provided in advance of discharge, staff must ensure there is a process in place to provide notification. To notify contact E-Comm 9-1-1 with police file number.</li> <li>3. Mail or email a copy of this form to the VCH Information Privacy Office at <a href="mailto:privacy@vch.ca">privacy@vch.ca</a> and retain the original in the client chart or document the release in the health record.</li> </ol>									
<p><b>VCH Authorization for Release:</b></p> <p>Name and Title of VCH Staff member: _____</p> <p>VCH Site: _____</p> <p>Phone: _____</p>									
<p>VCH.0044   JAN.2014</p>									

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## Appendix 3 – Reporting Required by Law

Law	Who must report	Report to agency	Information to be Reported
<b>Crime against vulnerable adult</b>  <i>Adult Guardianship Act, section 50</i>	Designated agency under <i>Adult Guardianship Act</i>	Police	Facts and circumstances supporting a belief that a criminal offence has been committed against an adult about whom a report has been made under s. 46 of AGA
<b>Child in need of protection</b>  <i>Child, Family and Community Service Act, section 14</i>	Any person	Director of Child Protection, Ministry of Children and Family Development	Facts and circumstances supporting a belief that a child (a person under the age of 19) needs protection (see section 13 of the Act for examples of child in need of protection)
<b>Death by violence, etc.</b>  <i>Coroners Act, section 2</i>	Any person	Coroner or Peace Officer	Facts and circumstances supporting a belief that a death has resulted from violence, negligence, suicide, during pregnancy, etc. (see section for details)
<b>Death of patient in mental health</b>  <i>Coroners Act, section 4</i>	Administrator of designated mental health facility or hospital	Coroner	Facts and circumstances relating to the death of a person who dies while a patient of a designated mental health facility (see section for details)
<b>Risk of significant harm</b>  <i>Freedom of Information and Protection of Privacy Act, section 25</i>	Public body	Police or other relevant agency or to the public depending on nature of information	Information necessary to avert a risk of significant harm to the environment or to the health or safety of the public or a group of people.
<b>Gunshot or stab wound</b>  <i>Gunshot or Stab Wound Disclosure Act</i>	Health care facility	Police	Name and location of a person treated for a gunshot or stab wound (see <a href="#">Gunshot and Stab Wound Reporting Policy</a> )
<b>MSP Fraud</b>  <i>Medicare Protection Act, s. 47.1</i>	Practitioner or Health Authority	BC Medical Services Commission	Report a person who has fraudulently attempted to obtain benefits
<b>Patient dangerous to drive</b>  <i>Motor Vehicle Act, section 230</i>	Psychologist, Optometrist, Medical Practitioner or Nurse Practitioner	Superintendent of Motor Vehicles	Name, address and medical condition of a patient who is dangerous to drive and continues to drive.

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