

## **AF0500 POLICE DESIGNATED/DELEGATED AUTHORITY ACCESS TO CLIENTS AND CLIENT INFORMATION [\(and Frequently Asked Questions\)](#)**

### **1.0 PURPOSE**

To provide direction to staff when responding to requests from the police or designated/delegated authority for information about and/or access to Interior Health clients.

To assist staff in determining when to report to police or designated/ delegated authority.

To protect the privacy of Interior Health clients by ensuring compliance with the Freedom of Information and Protection of Privacy Act and any other legislation that governs the release of information.

### **2.0 DEFINITIONS**

Clients: includes patients and persons in care in Interior Health facilities and programs.

Designated/Delegated Authority: an individual authorized by legislation with powers of investigation.

Lawful Investigation: where there is an active investigation and file number and the police or other designated/delegated authority have provided sufficient reasons why normal procedures are not reasonable in the circumstances (e.g. such as warrants, court orders)

Personal Information: means recorded information about an identifiable individual, including:

- the client's name, address or telephone number,
- the client's race, national or ethnic origin, colour, or religious or political beliefs or associations,
- the client's age, sex, sexual orientation, marital status or family status,
- an identifying number, symbol or other particular assigned to the individual,
- the client's fingerprints, blood type or inheritable characteristics,
- information about the client's health care history, including a physical or mental disability,
- information about the client's educational, financial, criminal or employment history,
- anyone else's opinions about the individual, and the client's personal views or opinions, except if they are about someone else.

Public Interest: where there is a significant risk to the environment or health and

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Statutory Duty to Report:

safety of the public or group of people.  
when a law requires someone to report an event/incident to the police or to provide information to a government body upon request regardless of privacy legislation.

Examples of this would be the:

- Adult Guardianship Act which requires reporting situations of abuse likely resulting from a criminal act (assault, theft),
- Child, Family and Community Service Act which requires reporting suspected child abuse to the Director of Child Protection
- Health Act,
- Venereal Disease Act,
- Coroners Act,
- [Gunshot and Stab Wound Disclosure Act](#), and
- Motor Vehicle Act.

Urgent Request:

requests where there is evidence of a compelling and/or life-threatening requirement to immediately release personal information (e.g. unconscious, mortally wounded individual - release required for location of next of kin).

### 3.0 POLICY

#### 3.1 Requests from Police or Designated/Delegated Authority

Release of client personal information to police or designated/delegated authority **is not** permitted except in any of the following circumstances:

- (a) The police have the client's consent.
- (b) The police have a valid court order, search warrant, notice to produce or other lawful instrument.
- (c) Where a physician has reason to believe there is imminent risk of serious bodily harm to an identifiable person or group.

#### 3.2 Duty to Report to Police or Designated/Delegated Authority

Personal information about clients **must** be reported to police or designated/delegated authority if:

- (a) there is a statutory duty to report ([see examples in Appendix C](#)),
- (b) there is a significant risk of harm to other patients, the public, or health care staff or there is a credible threat of death/serious harm to another individual, or
- (c) it is in the public interest.

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

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### **3.3 Discretion to Report to Police or Designated/Delegated Authority**

Personal information about clients **may** be reported to police or designated/delegated authority if there is a threat to the client or a third party's safety (e.g. client driving impaired etc.).

### **3.4 What Information is Released to Police or Designated/Delegated Authority**

Only the information that is necessary to satisfy an obligation under the law, a court order, a notice to produce or a warrant is released.

Members of the health care professions, including doctors, nurses, and allied health professionals, should adhere as well to their professional standards and codes of ethics.

### **3.5 Access to Clients by Police or Designated/Delegated Authority**

The police or designated/delegated authority should only be allowed access to a client or a client's room if:

- (a) the client has provided consent,
- (b) there is a lawful investigation, or
- (c) a court order, search warrant or other lawful instrument is produced.

Personal effects of a client must be turned over to the police or designated/delegated authority if the request is made for the production of the effects as part of an investigation.

If a client is under investigation/arrest/detention by the police, the police have the right to guard the client's room and restrict access to family, friends and/or any other person(s). Clients, who are under investigation/arrest/detention by the police, wherever possible, should be moved to a private room for the privacy and safety of other clients and staff.

If a family member, friend or any other person is denied access to a client by the police and that person believes they are being wrongfully denied access to the client, they should be referred to the Administration/Designate.

## **4.0 PROCEDURE**

### **4.1 Responding to Requests for Client Information**

[See Appendix A](#)

### **4.2 Reporting Gunshot and Stab Wounds**

[See Appendix A1](#)

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### **4.3 Family, Friend or Any Other Person Denied Access to Patient by Police**

#### **All Staff:**

- refer family member, friend or other person to Administration/Delegate (after regular business hours, contact the Administrator-on-Call).

#### **Administration/Designate:**

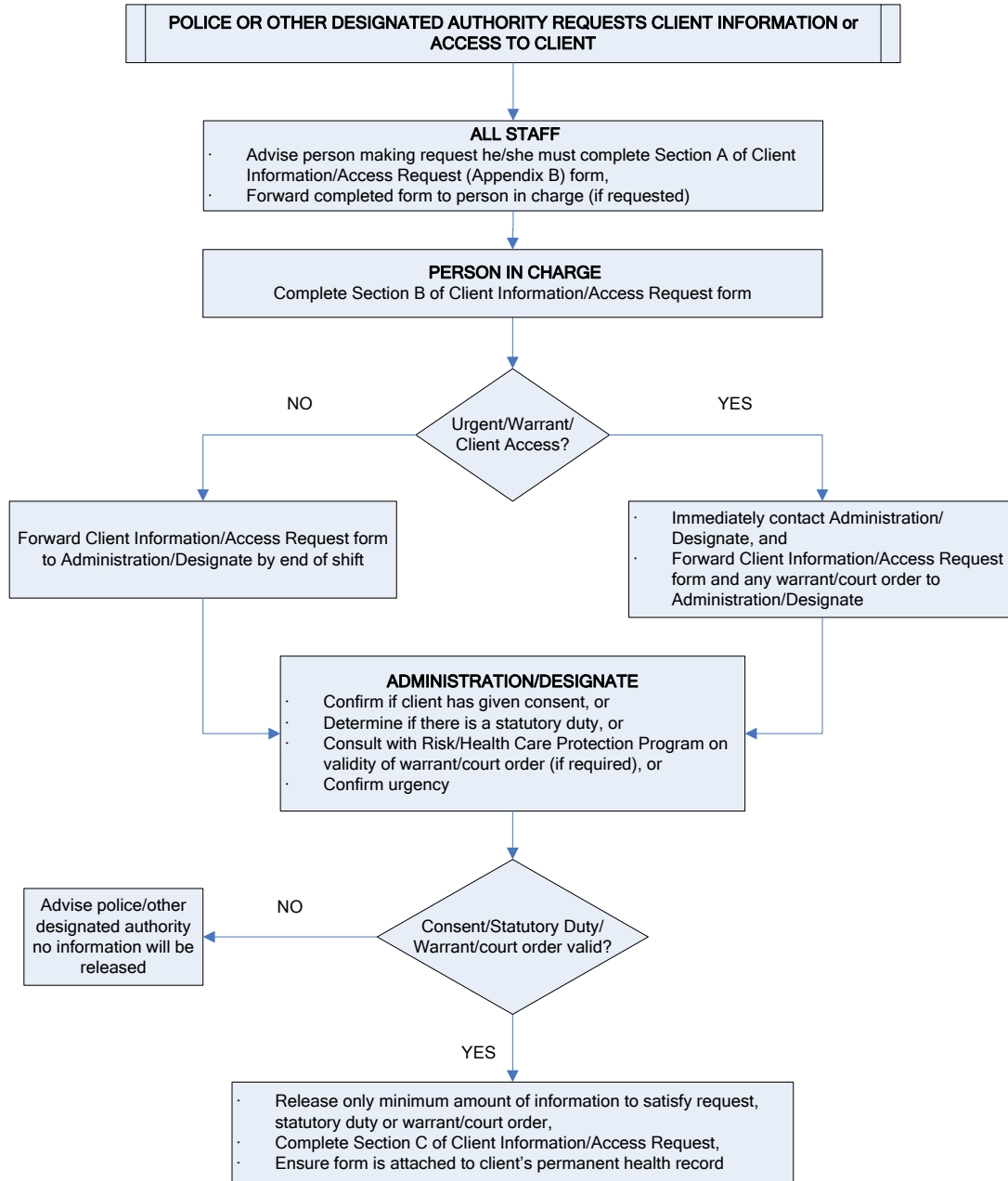
- review details of circumstances from staff member,
- discuss with family member, friend or other person,
- discuss patient's arrest status with police,
- determine if patient is under arrest/detention, and
- mediate a resolutions with police if patient is not under arrest/detention. and
- advise family member, friend or other person of patient's arrest/detention status.

### **5.0 REFERENCES**

1. Freedom of Information and Protection of Privacy Act of BC
2. HCPP Risk Note - June 2002 - Disclosing Client Information Under the FOIPP Act
3. Discussion Paper – David H. Flaherty, Information and Privacy Commissioner, Province of BC
4. Gunshot and Stab Wound Disclosure Act

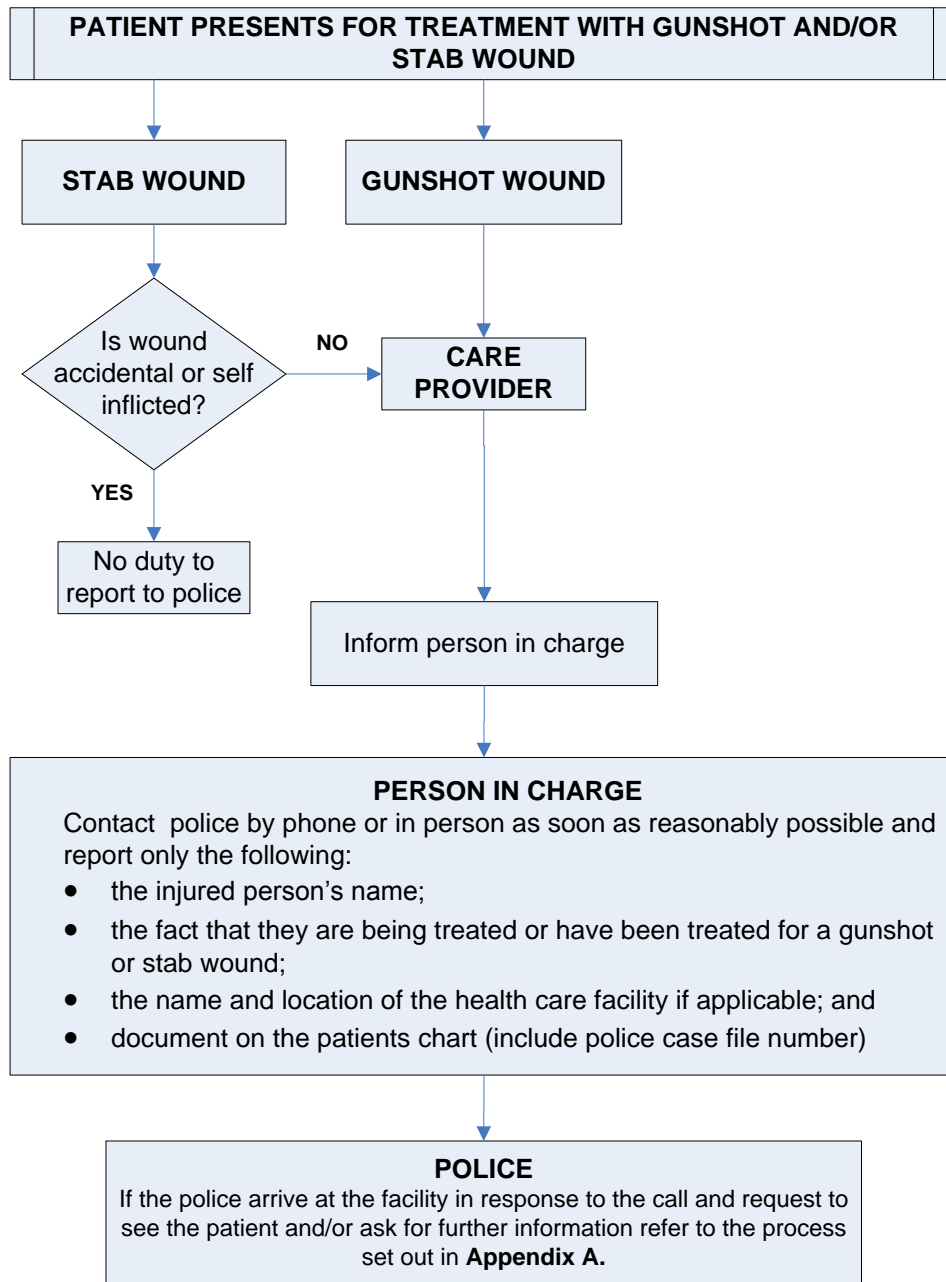
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**APPENDIX A - RESPONDING TO REQUESTS FOR CLIENT INFORMATION**



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**APPENDIX A1 – REPORTING GUNSHOT AND STAB WOUNDS**



**NOTE:** Staff can not be held criminally or civilly liable for reporting and/or failing to report gunshot and/or stab wounds to the police, providing they are acting in good faith.

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APPENDIX B

**CLIENT INFORMATION/ACCESS REQUEST**

(BY POLICE OR DESIGNATED/DELEGATED AUTHORITY)

Sample Form only. Form is located in the Forms Library

<http://inet.interiorhealth.ca/infoResources/forms/Documents/807324.pdf>

**Section A: DETAILS OF REQUEST FOR CLIENT INFORMATION OR ACCESS**

(This section of the form is to be completed by the person making the request (e.g. police) however in circumstances where it is not practical the form can be completed by IH staff from information provided by the police by telephone etc.)

Name of Patient/Client: \_\_\_\_\_

Name of Facility: \_\_\_\_\_

**CHECK REASON CLIENT INFORMATION OR ACCESS TO CLIENT IS REQUESTED**

- Investigation of client - Criminal Code, Controlled Drugs and Substances Act, Narcotics Act
- Investigation of client - Other legislation: \_\_\_\_\_
- Warrant
- Client as a witness
- Other \_\_\_\_\_

**WHAT INFORMATION IS BEING REQUESTED**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CASE FILE INFORMATION**

Case File Number: \_\_\_\_\_

Reason for no Case File Number: \_\_\_\_\_

**POLICE/OTHER DESIGNATED AUTHORITY PERSONNEL INFORMATION**

Name: \_\_\_\_\_ Telephone number: \_\_\_\_\_

Title: \_\_\_\_\_ Badge number: (if applicable) \_\_\_\_\_

Detachment/Agency: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ a.m. / p.m.

Signature: \_\_\_\_\_

**Please return signed form to issuing facility in person or by fax at:**



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**Section B: FACTORS TO CONSIDER FOR RELEASE OF INFORMATION OR ACCESS TO CLIENT**

(This section to be completed by Person in Charge)

**CLIENT WHOSE INFORMATION OR ACCESS TO IS SOUGHT**

Name: \_\_\_\_\_

Client currently in facility?     YES                       NO

Client consent obtained?     YES                       NO                       NOT ASKED

Information requested: \_\_\_\_\_

Urgent request                       Warrant/court order served                       Lawful Investigation

Access to client/client's room

If any of the above is checked:

1. advise police/designated authority request has been forwarded to Administration/Designate,
2. immediately contact Administration/Designate, and
3. deliver form to Administration/Designate.

If none of above is checked deliver form to Administration/Designate by the end of your shift.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ a.m. / p.m.

Signature: \_\_\_\_\_

**Section C: AUTHORITY TO RELEASE INFORMATION OR ALLOW ACCESS TO CLIENT**

(This section to be completed by Administration/Designate)

**INFORMATION RELEASED OR ACCESS TO CLIENT GRANTED**                       YES                       NO

**AUTHORITY RELIED ON TO RELEASE INFORMATION OR GRANT ACCESS TO CLIENT**

Client consent                       Lawful Investigation                       Warrant/court order (attach)

Urgent \_\_\_\_\_

Statutory duty \_\_\_\_\_

**DESCRIBE INFORMATION RELEASED OR ACCESS GRANTED** \_\_\_\_\_

**IF REFUSED DESCRIBE REASON FOR REFUSAL** \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ a.m. / p.m.

Signature: \_\_\_\_\_

**Ensure completed form is attached to Client's permanent health record**

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## APPENDIX C

### **Child, Family and Community Service Act**

Section 14 provides any person who has "reason to believe" a child needs protection must promptly report the matter to the Director/designate. This applies even if the information is privileged, or is confidential and would otherwise be protected under *FOIPPA*. Failure to report this belief is an offence. Subsection 29(1) provides "if a child or a parent of a child refuse to give consent to health care that, in the opinion of two medical practitioners, is essential to preserve the child's life or to prevent serious or permanent impairment of the child's health", the Director may apply to a court. The Director under this statute should be notified by the physician and/or the facility in such a case.

### **Motor Vehicle Act**

This statute provides that when certain conditions which affect the ability of an individual to operate a motor vehicle exist notification must be made by an optometrist, psychologist or medical practitioner to the registrar of motor vehicles if the patient continues to drive after being warned of the danger.

### **Health Act and Venereal Disease Act**

*The Health Act* provides that when certain illnesses such as contagious diseases exist, notice must be given to specified persons within seven days. These reports would contain information identifying the name and residence of the patient. *The Venereal Disease Act* also requires the report of disease.

### **Coroners Act**

The person in charge of an institution referred to in this section must immediately report to a coroner the facts and circumstances relating to the death of a person who dies

- (a) while a patient of a designated facility or private mental hospital within the meaning of the *Mental Health Act*, whether or not on the premises or in actual detention,
- (b) while the person is committed to a correctional centre, youth custody centre or penitentiary or a police prison or lockup, whether or not on the premises or in custody, or
- (c) while a patient of a hospital within the meaning of the *Hospital Act*, if the patient was transferred to the hospital from a place referred to in paragraph (a) or (b).

Please note information protected by s51 of the *Evidence Act* cannot be disclosed to the Coroner.

### **Adult Guardianship Act**

Section 50 of this statute requires a designated facility, which has reason to believe a criminal offence has occurred against an adult about whom a report has been made under section 46 of this *Act*, to report the facts to the police.

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## FREQUENTLY ASKED QUESTIONS

updated October 1, 2011

### Introduction

The following questions and answers are provided to **assist** individuals receiving and managing the request for client information or access to the client in responding in accordance with Interior Health policy.

We have a statutory duty to protect the privacy of our clients (Freedom of Information & Protection of Privacy Act). Release of information and/or access to clients by the police and/or designated government authority is only allowed under certain circumstances. To ensure we protect our clients' privacy we need to assess every request by using the same standards and information. The form is the tool we use to achieve this standard. No Information is to be provided unless the request is made on the Client Information/Access Request Form.

The Frequently Asked Questions are into 3 sections. The 1<sup>st</sup> section provides answers to questions about our duty to "report". The 2<sup>nd</sup> section provides answers to questions or "releasing" information upon a request. The 3<sup>rd</sup> section provides answers to questions about police "access to clients".

The questions are based on examples of situations that have arisen in the past; however, they do not cover every contingency. The Administration/Designate must review the information provided by police or other designated authority on the Client Information/Access Request Form and exercise professional judgment, in making his/her decision, based on the information provided.

### Reporting v Releasing

The term "**report**" is used in the context of providing the police or designated authority information about the client without a request being made.

We have a "**statutory duty**" to report when there is a law which requires someone to report an event/incident to the police or designated authority regardless of privacy legislation.

Two examples of this would be Adult Guardianship Act which requires reporting situations of abuse likely resulting from a criminal act (assault, theft) and the Child, Family and Community Service Act which requires reporting suspected child abuse to the Director of Child Protection. Other Acts which have mandatory reporting requirements include the Health Act, Venereal Disease Act, Ombudsman Act, Coroners Act and Motor Vehicle Act.

We must also report (duty to warn) when it is in the "**public interest**". This means when there is a significant risk (actual v potential) to the health and safety of the environment, the public at large, the client (self-harm) or any other individual. Examples would include:

- someone threatening to blow up a building or injure a group of people (mass shootings),
- someone driving while their ability to do so is impaired by alcohol or a drug, or
- someone threatening to kill or seriously harm another person.

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The term “**release**” is used in the context of providing information to the police or designated authority when a request is made for the information. We can release information if:

- the client gives consent, or
- there is a lawful investigation, or
- we are served with a warrant, notice to produce and/or other court order.

In all of the following FAQs where the term “police” is used it should be interpreted to mean the “police and/or other designated authority”.

## SECTION 1 - DUTY TO REPORT CLIENT INFORMATION

### 1. A client arrives in the emergency department with a gunshot/stab wound. The client is conscious and refuses any police involvement. Are we required to automatically report this to the police? Should we report this to the police?

Yes, there is a statutory duty to report all gunshot and non self inflicted or non accidental stab wounds to the police. The procedure is as follows:

1. **All gunshot wounds** are reported to the person in charge, (go to 3. below)
2. (a) Determine if the **stab wound is** self inflicted or accidental. If stab wound **is** self inflicted or accidental, then **no** duty to report  
  
(b) If stab wound **is not** self inflicted or **non** accidental then **inform** person in charge, (go to 3. below)
3. Person in charge contacts police by phone or in person as soon as reasonably possible and reports only the following:
  - the injured person’s name
  - the fact that they are being treated or have been treated for a gunshot or stab wound
  - the name and location of the health care facility if applicable
4. Person in charge documents on the patients chart (include police case file number)

**NOTE:** Staff **can not** be held criminally or civilly liable for reporting and/or failing to report gunshot and/or stab wounds to the police providing they are acting in good faith.

### 2. In the emergency department, a client (under the age of 19) discloses to staff, various specifics of alleged sexual abuse (generally an ongoing situation involving a person related to the client or a person in a position of authority over the client). Who should I report this to?

Yes, this should be reported immediately to the Ministry of Children and Family Development **and documented in the client’s health record.**

### 3. A client presented to the emergency department for treatment and was then admitted as an inpatient. The client looked very familiar. A staff member believed the client’s picture was in Crime Stoppers in our local paper. Should this be reported to the police?

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This should only be reported if there is an honest belief that it is necessary to protect the safety of other clients, visitors, and staff.

4. **A client was treated and released from the emergency department. The client was observed to be impaired and was seen getting into the drivers seat in an automobile and driving away. Should this be reported to the police?**

Yes, an impaired driver is a threat to his/her own safety as well as the safety of the public so it would be appropriate to report this to the police.

5. **On a home visit a client (known to be a vulnerable adult – over 19) was observed to have severe injuries which in the opinion of the nurse were consistent with a person who had been assaulted. Should the nurse report this to the police?**

Yes, Interior Health is a Designated Agency under adult guardianship legislation. As such we are required by law (statutory duty) to report incidents where there is a reason to believe that a vulnerable adult is the victim of a criminal offense. (assault, theft etc.)

## SECTION 2 - REQUESTS FOR RELEASE OF CLIENT INFORMATION

6. **The police are asking if we have treated anyone in the previous 24 hours with gunshot, stab or other specific wounds/injuries. They want this information immediately. Should this information be released?**

Gunshot and stab wounds should have been reported upon admission (see question 1). If unreported and the information is later requested it should be released.

If the request is for other type of wounds/injuries the request is too vague the police must provide sufficient information about the matter under lawful investigation on the prescribed [Client Information/Access Request Form](#).

7. **The police are requesting information as to whether anyone was admitted in the past few days, fitting a particular physical description. They also provide details of the offense under investigation (i.e., not a “fishing expedition”). They want this information immediately. Should we release this information?**

Yes if the police have provided sufficient information about the matter under lawful investigation on the prescribed [Client Information/Access Request Form](#).

8. **What is a lawful investigation?**

Where the police/authority are actively and formally investigating a matter (e.g. have assigned a file No.)

9. **The police present a warrant/court/or production order issued or made in Canada by the Courts to compel the production of specific information, but wish to view lab reports and**

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**entire chart which are not covered in the scope of warrant. What information should be released?**

Only the information specified in the warrant can be released. Advise police the additional information will only be released with a warrant or notice to produce which covers this information. [Complete the Client Information/Access Request Form.](#)

**10. The police want to arrest a client and have asked nursing staff to notify them of the time of the client's impending discharge. Should we be advising the police of the client's discharge?**

No, if the police are aware that the client is in the facility there are other means for them to deal with this issue. The police could serve the client with an Appearance Notice or Summons.

**11. The police have requested a client's (victim of a crime) personal effects.**

The police do not require a warrant to seize a client's personal effects as evidence in relation to a crime; however the evidence must be in plain view.

**12. The police have requested a copy of the client's (victim or suspect) health record. Should the record be released to the police?**

No, a warrant/court/production order is required to release the client's health record.

**13. A murder/rape has occurred and the client (suspect) is in hospital being treated. The police request invasive (example: extracting a blood sample) blood/body fluid samples from the client. Should the police be provided with the samples?**

No, a warrant/court/production is needed when an invasive procedure is required to obtain blood or other bodily fluids unless the client consents. If the police have requested a blood sample for the purposes of blood alcohol testing see IH administrative policy AL0300 Blood Alcohol.

**14. A murder/rape has occurred and the client (suspect) is in hospital being treated. The police request the release of the client's clothing and wish to take blood/bodily fluids swabs on the external surface of the client's body. Can we allow the police to do this?**

Yes, the police do not require a warrant to take clothing or non-invasive samples from suspects, victims and witnesses. This means that the police do not require a warrant to swab blood or other bodily fluids that have been splashed or deposited on the body, clothes or personal belongings of a victim, suspect or witness.

**15. The client is unconscious in ICU and the police want to know the extent of the injuries and prognosis. Can we release this information to the police?**

No, unless the police are conducting a lawful investigation. [Complete the Client Information/Access Request Form.](#)

### SECTION 3 - REQUESTS FOR ACCESS TO CLIENTS

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**16. The police wish to interview a client as part of an active investigation. Should the police be allowed access to the client?**

Yes, unless there are medical reasons that preclude the client from being interviewed at the time. If, for any reason, a client becomes clinically unstable during an interview process, the care provider may request termination of the interview.

**NOTE:** There is no obligation for a client to talk to the police however this is a matter between the client and the police

**17. An infant brought to emergency department by her mother with vomiting and loss of consciousness is admitted to ICU with what appears to be a non-accidental brain injury due to a suspected shaking incident. The police wish to interview the staff members involved in the infants' care. Should staff be allowed to be interviewed by the police?**

A subpoena is required to compel a staff member to give evidence to the police. Staff should consult with their manager if served with a subpoena or asked to give a statement.

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