



TITLE: DPH PRIVACY: LAW ENFORCEMENT REQUESTS FOR IMMEDIATE ENTRY TO DPH COMMUNITY-BASED PROGRAMS

POLICY:

It is the policy of the San Francisco Department of Public Health (DPH) to respond to law enforcement requests, while protecting the confidentiality rights of its patients and clients.

PURPOSE:

Staff working in Department of Public Health (DPH) community-based client programs may be approached by law enforcement officers requesting entry into programs or information about the presence of a client pursuant to criminal investigation or arrest. The purpose of this policy is to provide program staff with guidance on how to respond to law enforcement requests.¹

This policy shall apply to all DPH community-based programs; e.g., outpatient, residential, day, offsite-based, and case management programs. This policy is not intended for San Francisco General Hospital, Laguna Honda Hospital, or the Behavioral Health Center. DPH contractors and affiliates may use this policy as a guide, but should consult with their own counsel to ensure the necessary procedures for their programs.

PROCEDURE

In the event that local, state, or federal law enforcement officers present themselves requesting immediate entry into the program premises or immediate information about a client, they must provide one or more of the following unless the event falls under an exception provided below:

- The presentation of a court order², search warrant³, or arrest warrant⁴;
- A statement by a law enforcement officer that an arrest warrant exists.

Because more stringent laws apply, immediate entry or immediate information requested from substance abuse treatment programs or sexually transmitted disease (STD) programs may only be allowed pursuant of a specific court order upon written authorization of the City Attorney

In the event an employee is served with a court order, search warrant, or arrest warrant, staff should:

1. Grant entry. Never attempt to hide or destroy any information that may be considered evidence.

¹ When law enforcement officers request written or oral documentation about clients that are not immediate, the requests should be handled by the program's medical records staff during normal business hours.

² A court order is a document signed by a judge of a court directing a specific action such as the disclosure of client protected health information. A subpoena is not a court order. A subpoena alone is not sufficient for the release of protected health information to a law enforcement officer; unless it is accompanied by a court order.

³ Search warrants generally entitle government agents to search a department and/or work area and to seize documents and data.

⁴ A warrant for an arrest directs the sheriff or other law enforcement officer to seize a particular person.



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2. Contact your department manager or supervisor as soon as possible. If the law enforcement officer in charge asks you for permission to expand the search, do not agree without authorization from your DPH Privacy Officer.
3. Request to make a copy of the court order, search warrant or arrest warrant, as well as identification, including a business card, from the law enforcement officer in charge.
4. Request the law enforcement officer to provide a list of any records being seized. In addition, create your own list of any records seized. Electronic records, including an employee's desktop computer, may be included in a search warrant authorization.
5. If records seized are needed to continue to operate and provide patient care, ask for permission to make copies. Records seized by law enforcement officers may be kept for an extended period of time.

Exceptions: Staff should grant such entry without a demand for a court order, search warrant, or arrest warrant under the following circumstances:

1. Staff have called for assistance from law enforcement,
2. Staff are aware (or a law enforcement officer has informed them) that a client has directly reported an immediate concern for his or her own safety,
3. Staff are aware (or a law enforcement officer has informed them) that an alleged crime is in progress of being committed on the premises,
4. Staff are aware (or a law enforcement officer has informed them) that entry or immediate information about the client is needed for the protection of a federal and state elective constitutional officer or the family of a federal and state elective constitutional officer, and/or
5. A law enforcement officer informs staff that he/she is in active pursuit of a suspect who has committed a crime and who may be presently at the program.

Staff should not provide information (in person or by telephone) to law enforcement officers about the presence, or the anticipated presence of a client, unless one of the above exceptions applies.

In every instance, staff should inquire of the law enforcement officer as to the nature of the request of the search or investigation to more effectively document the event in a DPH incident report. Be advised, the officer may need to first complete other tasks because of safety and/or evidence reasons.

Note about Required Reporting

When staff members make a required report; e.g., child or dependent abuse, elder abuse, or Tarasoff, they should provide investigators with the necessary information, including the client's address and contact information pursuant to their investigation. However, staff should not pre-arrange an investigatory meeting or interrogation with the client at the program site without the client's prior notice and authorization. Nor should the program inform investigators of the client's anticipated presence at their program.