

University Health Network Policy & Procedure Manual Administrative: Release of Information/ Specimens/Items to Police

Policy

University Health Network (UHN) recognizes that, as a public hospital, it is responsible for safeguarding the privacy of [personal health information \(PHI\)](#) and that PHI may be disclosed only in accordance with the law. This and other UHN policies and guidelines related to the release of patient information to third parties should be referred to whenever the release of any patient information is under consideration.

Related policies and guidelines include:

- [Release of Patient Information](#) policy 1.40.002 – for information on disclosure of information to third parties other than the police, including reporting requirements under the:
 - a. [Highway Traffic Act](#)
 - b. [Health Insurance Act](#)
 - c. [Coroners Act](#)
- [Mandatory Reporting of Gunshot Wounds](#) policy 1.30.002
- [Immediate Response to Abuse of Patients](#) policy 3.40.021
- [Process for Release of Information/Specimens/Items to Police](#) algorithm
- [Key to Release of Information to Police – Guide for Administrators-on-call](#)

Legal Affairs or the site administrator-on-call (AOC) will direct staff on the processes to follow in protecting or disclosing [information/specimens/items](#) to police and other authorities.

Required Procedures for UHN Staff When Contacted by Police

No [information](#) (including a patient's name, the fact that a person is a patient, or their location in UHN), [specimen](#), or [item](#) should be given to police, except in accordance with this policy.

UHN staff may not release any information/specimens/items to police without receiving prior authorization from Legal Affairs/AOC.

In all cases, when police contact UHN staff to request the release of information/specimens/items, whether in person or by telephone, UHN staff must notify their manager/delegate/administrator-on-site (AOS). The manager/delegate/AOS must contact

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Legal Affairs/AOC to obtain direction for all requests by police for the release of information/specimens/items.

(See [Procedure: Required Procedures for Staff When Contacted by Police.](#))

Preservation of Evidence

Staff must ensure that all steps are taken to preserve [potential evidence](#). (See [Procedure: Managing Potential Evidence.](#))

Release of Specified PHI Pursuant to a Police Investigation

UHN will make best efforts to respond to police requests for the release of [PHI](#) pursuant to a police investigation, in a timely manner and within one hour wherever possible.

(See [Procedure: Release of Specified PHI Pursuant to a Police Investigation.](#))

Release of Specimens/Items to Police

Staff should **not** release [specimens/items](#) to police, except where:

- patient consents
- police produce a court order (e.g. search warrant, subpoena, production order) requiring the release of the specimen/item
- illegal drugs/weapons and the owner is unknown

Laws Governing Release of Information/Specimens/Items to Police

UHN is in compliance with the laws that specify whether disclosure of [information/specimens/items](#) to police is required, permitted, or prohibited in the circumstances as set out in the common law and the following statutes:

- [Public Hospitals Act, 1990](#)
- [Personal Health Information Protection Act, 2004](#)
- [Criminal Code](#) and related statutes

For details of circumstances and processes for the release of information/specimens/items to police, managers/delegates/AOS and AOC are directed to follow the [Key to Release of Information to Police – Guide for Administrators-on-call.](#)

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Definitions

Information: Information relating to an individual other than PHI (such as video surveillance or voicemail messages).

Items: Any item other than specimens, PHI or personal belongings.

Personal belongings: Includes items such as a wallet, clothing and other personal effect, but does not include illegal drugs and weapons.

Personal health information (PHI): Information about an individual whether living or deceased and whether in oral or recorded form. It is information that **can identify** an individual and that relates to matters such as the individual's physical or mental health, the providing of health care to the individual, payments or eligibility for health care in respect of the individual, the donation by the individual of a body part or bodily substance and the individual's health number (Personal Health Information Protection Act, 2004, section 4.1).

- Personal health information can be information about a physician or other care provider, a hospital staff person, a patient, or a patient's family member. Examples of personal health information include a name, medical record number, health insurance number, address, telephone number, and personal health information related to a patient's care such as blood type, x-rays, consultation notes, etc.
- Personal health information includes all that is written, verbal, in hard copy, on microfilm, scanned, photographed, in computerized or any machine-readable form and electronically stored or transmitted (includes the medical record, clinical and non-clinical data).

Potential evidence: Specimens/items that are likely evidence of the commission of a criminal offence (such as weapons, bullets and debris associated with a wound for which the patient is receiving treatment), and/or specimens/items that police have requested to be released, but does not include personal belongings.

Specified PHI: Any of the following information set out by a police officer in a [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500):

- name, telephone number, address of the patient
- location of the patient in UHN
- name, telephone number, address of next of kin
- general prognosis of patient, if known, described as poor, critical, fair
- time of discharge, if known
- whether patient has broken bones

Specimens: Bodily fluids (such as blood or urine) or tissue

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Procedures

Required Procedures for Staff When Contacted by Police

1. Upon initial communication with police:
 - Advise police that UHN staff are required to forward all requests for the release of information/specimens/items to Legal Affairs/AOC.
 - Advise police that, after consultation with Legal Affairs/AOC, either Legal Affairs/AOC or the UHN staff person will respond to the police request.
 - Obtain the following information and document in the patient's health record:
 - a. name and badge number of police officer requesting information
 - b. police division
 - c. a contact telephone number for the police officer so that a UHN staff person can follow up with police on the request
 - d. nature of information requested by police
 - e. reason information is being requested
 - f. where presented by police, a copy of the subpoena, summons, court order, or [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500)
 - Where police request the release of specimens or items, ensure that all steps are taken to preserve the specimen or item as set out in [Procedure: Managing Potential Evidence](#).
 - Notify manager/delegate/AOS and Security, if necessary, of the request from police for the release of information/ specimens/items.
2. **Manager/delegate/AOS:**
 - Confirm that all steps have been taken to preserve the specimen or item as set out in [Procedure: Managing Potential Evidence](#).
 - Notify Legal Affairs/AOC.
 - Forward any requests for information regarding UHN staff to the People & Culture adviser/manager.
 - Notify Security, if necessary.

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3. **Legal Affairs/AOC:**

- Where appropriate, direct staff to seek patient (or if patient is incapable, patient's SDM) consent to release information requested.
- Authorize or refuse disclosure of information pursuant to patient consent, warrant or court order, or as otherwise permitted or required by law (see [Key to Release of Information to Police – Guide for Administrators-on-call](#)).

4. **Manager/delegate/AOS:** Document in the health record whether:

- patient/SDM consent for release of information was sought and obtained
- information requested was released and basis for release or refusal to release

Release of Specified PHI Pursuant to a Police Investigation

1. **Staff who receives request for disclosure of specified PHI:**

- Ensure that police complete and submit a [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500).
- Advise police that UHN staff are required to forward all requests for the release of information/specimen/items to Legal Affairs/AOC.
- Advise police that, after consultation with Legal Affairs/AOC, either Legal Affairs/AOC or the UHN staff person will respond to the police request for release of information.
- Notify manager/delegate/AOS of request for release of information.

2. **Manager/delegate/AOS:** Advise Legal Affairs/AOC of request for release of specified information.

3. **Legal Affairs/AOC:** Where appropriate, direct manager/delegate/AOS to seek patient (or if the patient is incapable, the patient's SDM) consent to release the information requested.

4. **Manager/delegate/AOS:**

- Where directed by Legal Affairs/AOC, seek consent to release of information from patient/SDM and document the following in the health record:
 - a. that police have submitted a [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500)
 - b. whether the patient has been so advised

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- If the patient consents to the release of their PHI, document the following in the health record:
 - a. the patient’s consent to the release of their PHI
 - b. the PHI that was released to police
- If the patient refuses to release their PHI as requested by police, communicate information contained on the [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500) (via fax, email or verbally by telephone) to Legal Affairs/AOC.

5. Legal Affairs/AOC:

- If the patient/SDM does not consent to release of PHI requested by police, review the completed [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500) and determine if the information in the disclosure request form is complete and sufficient to enable the Hospital to exercise its discretionary authority to disclose the PHI without patient consent.
- Ensure the following information is included on the [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500) before authorizing the disclosure of PHI:
 - a. police officer’s name, badge and telephone number
 - b. police officer’s signed declaration that a bona fide investigation is underway
 - c. the name, if known, or description of the individual whose information is being sought
 - d. the specific information being requested
 - e. the legal authority (federal or provincial act) under which the investigation is authorized
 - f. the signature of the police officer in the “Statement of the Police Officer” section

6. Manager/delegate/AOS:

- Indicate on the [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500) the name of Legal Affairs/AOC who authorized (or refused) disclosure.
- File the [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500) in the health record.
- Provide a copy of the [Disclosure Request Form For Disclosure of Specified Patient Information In Exigent Circumstances](#) (form D-6500) to police within 48 hours.
- Fax a copy of the form to Legal Affairs at (416) 340-3537 for tracking purposes.

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Managing Potential Evidence

Initial Collection of Specimens/Items

Note: The triage nurse/manager/delegate/AOS may, at their discretion, direct the collection of specimens/items that are potential evidence.

Note: If the patient was transferred by ambulance, any transfer sheet from the ambulance may be treated as evidence.

1. When handling **items**:

- Always wear gloves.
- Be cautious for needles and other sharps in pockets.
- When it is necessary to cut clothing to effect its removal, when possible, cut along seams.

Note: Do **not** cut along holes or punctures as this may disturb evidence relating to stabbing or shooting.

2. When handling **debris**:

- Avoid cleaning the patient's hands more than necessary, since gunpowder residue, tissue or hair may be present.
- Use tape to collect debris such as glass fragments, dirt, hairs or fibres found on the patient.
- If surgical skin prep will remove any evidence, document such things as blood-stain patterns or bloody fingerprints.

3. When handling **bullets**:

- Do **not** handle with uncovered metal instruments.
- Use surgical forceps that have tips covered with rubber protection (i.e. rubber shods).
- Wrap the bullet in dry gauze and put it into a specimen container.

Note: Do not drop the bullet into a metal container.

- Be cautious for sharp edges on exploded bullets.

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4. When handling a **stab weapon** such as a knife:
 - Avoid handling the weapon in the same manner that the culprit would have handled it.
 - Package in cardboard to avoid smearing fingerprints.

Documentation of Wounds & Punctures

1. Describe wounds and punctures in the health record and use a body graph to record:
 - Wounds on the patient, including wounds on the hands, forearms or arms, as such wounds may be evidence of self-defence.
 - Sites where skin was punctured by operating room (OR) personnel.
 - When describing the wound, include:
 - a. patterned abrasions around the wound
 - b. shape and size
 - c. residue surrounding the wound
 - d. fabric or debris in or around wound edges (and collect such debris as evidence)

Removal & Storage of Potential Evidence

1. **Illegal drugs, weapons and bullets removed by surgical procedure:**
 - Where possible, segregate illegal drugs, weapons and bullets removed by surgical procedure from surrounding tissue.
 - Send all tissue removed from a patient during a surgical procedure to Pathology for examination and report.
 - Store illegal drugs, weapons, bullets and any other potential evidence in a secure place on the unit, pending their transfer to Security as soon as is practicable.
2. **Illegal drugs, weapons and bullets found anywhere at UHN:**
 - Notify Security immediately to have Security staff remove illegal drugs, weapons and bullets and store same in the Security Department.
 - Where Security cannot be notified immediately, illegal drugs and weapons may be removed by non-Security staff and stored in a secure place on the unit, pending their transfer to Security as soon as is practicable.

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3. **Other potential evidence:** Store other potential evidence in a secure place on the unit, pending its transfer to Security as soon as is practicable.
4. **Specimens:**
 - Store specimens (e.g. blood, urine) requested to be released by police in a secure place on the unit pending the direction to release them by the manager/ delegate/AOS and production of warrant or court order by police.
 - Do **not** send specimens to Security.
5. **Personal belongings** (e.g. wallet, clothing, purse, back pack): Do not remove a patient's personal belongings, except in accordance with [Patient Personal Property & Valuables](#) policy 3.40.020, to be returned to the patient at their request.

Note: Staff may use a sheet or bag to gather a patient's clothing, but, as with other personal belongings, clothing should remain with the patient unless the patient directs otherwise, or until such time as police produce a warrant or court order.
6. Document in the chart or perioperative record and complete a [Stored Item/ Potential Evidence Log](#) for each item/specimen removed and stored as potential evidence, including:
 - name/description of item/specimen
 - note where specimen/item was found (if found on the body, note precise location)
 - name of all staff who have handled the item/specimen
 - date, time and location where item/specimen has been stored
7. Keep [Stored Item/Potential Evidence Log](#) with the specimen/item.

Transfer of Potential Evidence to Police

Where the manager/delegate/AOS directs the release of specimens/items to police, document the following in the health record and/or in an incident report:

- the basis upon which the specimen/item was released to police (i.e. patient consent, warrant for seizure, warrant for arrest, illegal drugs/weapons and owner unknown)
- name of staff who releases specimen/item to police
- name and badge number of the police officer(s) who receives the specimen/ item and time of release
- Provide a copy of the [Stored Item/Potential Evidence Log](#) to police and fax a copy to Legal Affairs at (416) 340-3537.

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