

**SAN JUAN ISLAND EMERGENCY MEDICAL SERVICES
SAN JUAN COUNTY PUBLIC HOSPITAL DISTRICT NO. 1**

Standard Operating Guideline

RELEASE OF PATIENT INFORMATION TO LAW ENFORCEMENT

No. 122-07

Date Issued:

11/13/2007

Effective:

Immediately

Date Revised:

PURPOSE

To provide consistent guidelines for personnel of San Juan Island EMS (“SJIEMS” or “District”) on when they may be permitted to disclose patient information to law enforcement. Under the federal privacy regulations (i.e. HIPAA), individually identifiable information about a patient’s medical situation is often protected from disclosure to others unless the patient provides an authorization for that disclosure. There are exceptions to the need to obtain patient authorization and these exceptions are outlined in this policy.

GUIDELINE

Protected health information, or PHI, is defined as individually identifiable health information, created or received by SJIEMS, that relates to the past, present, or future physical or mental health of a patient. PHI can be in any form including paper, electronic, or verbal. Typical examples of sources where PHI may be contained include PCRs, completed billing claims forms, and verbal information about a patient exchanged with orders.

There are three (3) general categories where some or all of a patient’s protected health information (PHI) may be disclosed to law enforcement personnel:

1. Disclosures required by law;
2. Disclosures permitted by law, and;
3. Optional disclosures.

PROCEDURE- Disclosures Required by Law

SJIEMS is required by law to give a patient’s PHI to law enforcement regardless of the patient’s consent when law enforcement personnel present you with:

- a. A subpoena, summons or warrant (“SSW”)
- b. An administrative request/investigative demand

1. Subpoena, Summons or Warrant. Confirm that the paper you receive is, in fact, a SSW and that it specifically identifies the PHI you are required to disclose.

- a. A court order, subpoena or court-ordered warrant is issued by a Court, judicial officer or grand jury. Be sure that the SSW has one of these designations as the issuer. A SSW signed by a prosecuting attorney or court clerk is not sufficient.
- b. Patient care reports (PCRs). If the SSW is valid, provide ONLY the PHI requested therein. SJIEMS is legally required to disclose ONLY that information that is contained in the four corners of the SSW. SJIEMS is not to disclose any other information that is not specifically requested.
- c. If the SSW requests the entire PCR, or utilizes language such as “any and all records” pertaining to the patient, the District must provide the entire PCR in response.
- d. Do NOT disclose information based on a verbal request from law enforcement (see *Permitted Disclosures and Optional Disclosures for exceptions*).
- e. Keep a copy of the SSW.
- f. Please note: This section addresses SSWs issued by a Court, judicial officer or a grand jury in criminal proceedings, NOT served by civil litigants. See SJIEMS Policy 209-18 for civil litigation proceedings.
- g. If the request does not appear to be relevant and material to a legitimate law enforcement inquiry, contact the EMS Chief immediately.

2. Administrative Request/Investigative Demand.

- a. If a PHI request is pursuant to an order from an administrative tribunal:
- b. Give only PHI that is expressly authorized by the order and is relevant and material to the law enforcement inquiry;
- c. If the request is pursuant to a subpoena, discovery request or other legal process that is not accompanied by an order from a court or administrative tribunal:
- d. Be sure the person making the request has complied with RCW 70.02.060:
 - a. Advance notice to us and to the patient (or the patient’s lawyer) stating:
 - b. What health care information is sought;
 - c. The date (not less than 14 days after you are provided with the advance notice) by which a protective order must be obtained to prevent the health care provider from complying with the request
- e. If we comply with such request, the documents requesting PHI shall be made part of the patient’s record.
- f. You may disclose PHI to an officer if you reasonably believe that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual. HOWEVER disclosure must be limited to that which is necessary to accomplish this purpose. RCW 70.02.050(1)(d).

3. Minimizing an Imminent Danger:

If you **reasonably** and **in good faith** believe that release of PHI is **necessary** to prevent or lessen an **imminent and serious danger** to the health or safety of a patient or other individual, you may release PHI to law enforcement without a patient’s authorization and

without a direct request from law enforcement. You may only release the information necessary to prevent or minimize the imminent danger.

PROCEDURE- Permitted Disclosures

Below is a list of the approved situations where PHI may be disclosed, without the patient's authorization, consent or permission, when law enforcement requests PHI for the purpose of:

1. Identifying or locating a suspect, fugitive, material witness, or missing person. (see #1 below)
2. Victim of a crime (see #2 below)

Ask law enforcement the purpose of their request before disclosing PHI.

1. Identifying or locating a suspect, fugitive, material witness, or missing person.

If law enforcement indicated that they need the PHI to identify or locate a suspect, material witness, or missing person, you may disclose only the PHI listed below:

- a. Name
- b. Address
- c. Date of birth
- d. Place of birth
- e. Social Security Number
- f. Blood type
- g. Type of injury
- h. Date of treatment
- i. Time of treatment
- j. Description of distinguishing physical characteristics (i.e. weight, hair color, eye color, gender, facial hair, scars and tattoos).
- k. Date and time of death [if applicable]

The District will NOT give law enforcement any PHI when the sole purpose of the request is to assist law enforcement with their investigation or to help build a case against a suspect. Law enforcement's request must conform to the procedures outlined in this policy.

The District will NOT disclose information for the purpose of identification or location any PHI related to the patient's:

- a. DNA or DNA analysis
- b. Dental records
- c. Typing, samples or analysis of body fluids or tissue

2. Victim of Crime.

- a. The law allows more latitude when disclosing information to law enforcement authorities when the information is about a victim of a crime. Victims of a crime may include motor accident victims as often a criminal or traffic offense is involved, such as when the

accident results in the driver of another vehicle violating traffic laws. It is not the job of the District to make the determination that a patient is an actual crime victim, and in many cases the determination that a patient is or may be a crime victim can be inferred from the circumstances and the presence of law enforcement at the scene.

- b. The best approach is asking the patient (if the patient is conscious and alert) if it is acceptable to disclose PHI to law enforcement. The District may disclose PHI about a crime victim to law enforcement if the crime victim consents to the disclosure.
- c. If the patient is temporarily unable to consent, ask law enforcement if they can wait until the patient is able to consent.
- d. If law enforcement represents that it cannot wait until the patient is able to consent because doing so would materially and adversely compromise immediate law enforcement need (i.e., to determine if a crime has occurred or to determine the location of victims who may need to be interviewed later), then the District may disclose the patient's PHI.
- e. Ask for and obtain law enforcement's assurance that it does not intend that the PHI the District provides will be used against the victim and that the information is needed immediately. While these assurances may be given verbally, document that the District received them.
- f. Wound reporting is mandatory. Certain wounds: If a patient is being treated or has been treated for
 - a. bullet wound
 - b. gunshot wound
 - c. powder burn
 - d. other injury arising from or caused by the discharge of a firearm,
 - e. injury caused by a knife, ice pick, or any other sharp or pointed instrument which officers reasonably believe to have been intentionally inflicted upon a person,
 - f. a blunt force injury that officers reasonably believe resulted from a criminal act you may provide the following information about the patient upon receiving a request from law enforcement:
 - a. Name
 - b. Residence
 - c. Sex
 - d. Age
 - e. Condition
 - f. Diagnosis or extent and location of injuries;
 - g. Whether the patient was conscious when admitted;
 - h. The name of the health care provider making the above diagnoses or observations;
 - i. Whether the patient has been transferred to another facility; and
 - j. The time and date of discharge.

PROCEDURE- Optional Disclosures

1. Decedents. The District may disclose PHI to law enforcement when you think your patient died as a result of a crime. Limit the PHI to basic facts about the victim and the

circumstances of the death. The District may disclose PHI to a coroner regardless of the cause of death.

2. Crime of Premises. SJIEMS personnel may disclose to law enforcement any PHI you in good faith believe constitutes evidence of a crime committed on your organization's premises. This includes the station house, headquarters, parking lot, ambulance, etc.

3. Reporting Crime in an Emergency. The district may voluntarily offer PHI to law enforcement when the District believes it is necessary to alert the law enforcement to any of the following:
 - a. The commission of a crime
 - b. The nature of a crime
 - c. The location of the crime
 - d. The location of a crime victim
 - e. The identity, description, and location of a perpetrator of a crime.

GENERAL PROCEDURES

1. On scene communications must involve a common sense approach. Providing law enforcement with basic information about where you are taking a patient and the patient's general condition (critical, serious, minor, etc) is normally permissible when the event is a motor vehicle accident or other situations where a crime might have occurred. It is important to remember at all times if the District sees physical evidence of a potential crime (such as drug paraphernalia, strange white powder in a bag, etc.) that this evidence normally should be reported and given to law enforcement officials if it is not proper to leave it in the location it was found.

Requests for patient information that do not occur at the scene of an incident, but comes after the call is over should be directed to the Chief.