




Winson Memorial Hospital
We Care For You

 Winson Memorial Hospital We Care For You	<u>Effective Date</u>		
	July 2007		
	<u>Number</u> CP 003	<u>Replaces Policy</u> NEW	
<u>Title</u> Response to Government Investigations, Searches and Search Warrants	<u>Date Revised</u> July 2007	<u>Date Reviewed</u>	<u>Next Scheduled Review Date</u> July 2010
<u>Signature</u> _____	<u>Scope of Responsibility</u> Compliance		
Chief Compliance Officer			

PURPOSE:

Government investigators may arrive unannounced at IMH or the homes of present or former employees and seek interviews and documentation. The purpose of this policy is to establish a mechanism for the orderly response to government investigations to enable IMH to protect its interests as well as appropriately cooperate with any investigative agency.

POLICY:

IMH will cooperate with any appropriately authorized government investigation or audit; however, IMH will assert all protections afforded it by law in any such investigation or audit.

PROCEDURE:

1. Request for Interview

A. When government investigators request an interview, there is no obligation to consent to an interview, although anyone may volunteer to do so. A Team Member may request an interview during normal business hours, at IMH or another location designated by general counsel.

B. The staff member should always be polite and should obtain the following information:

- i. The name, agency affiliation, business telephone number, and address of all investigators; and
- ii. The reason for the visit.

C. When the investigator arrives, ask if there is a subpoena or search warrant and request a copy of the subpoena or warrant.

D. A Team Member can stop the interview at any time, with a request that the investigator return when counsel can be present. General legal counsel represents IMH and employees have the right to their own individual legal counsel. Legal counsel should be present for interviews whenever possible.

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E. If an employee chooses not to respond to the investigator's questions, the investigator has the authority to subpoena the employee to appear before a grand jury.

F. Any Team Member contacted by an investigator should immediately notify his or her supervisor. Provide this investigator with as much information and documentation about the investigation as possible. Ultimately, the request should go to the Chief Executive Officer and the Chief Compliance Officer.

2. Search and Search Warrants

A. Request an investigator on IMH premises to wait until either the Chief Compliance Officer, legal counsel, the administrator on-call, or the Chief Executive Officer arrives (employee in charge).

B. IMH employees must not alter, remove, or destroy permanent documents or records of IMH. All records are subject to state or nationally recognized retention guidelines and may be disposed of only in accordance with these guidelines. Once there has been notice of an investigation, the destruction portion of any policy on record retention is suspended.

C. If investigators present a warrant or search warrant, the investigators have the authority to enter private premises, search for evidence of criminal activity, and seize those documents listed in the search warrant. No Team Member has to speak to the investigators, but must provide the documents requested in the search warrant.

i. A search warrant is a written document giving legal authorization to specific law enforcement officers to search a specified area and to seize specific material. To be valid, a search warrant must:

(a) Describe the material that can be seized and the places that may be searched; and

(b) Be signed by or on behalf of a judge or magistrate within the jurisdiction of Laramie, Albany County, or the Federal District of Wyoming.

D. Team Members should always request copies of the warrant or search warrant and the affidavit providing reasons for the issuance of the warrant.

E. All Team Members should request an opportunity to consult with IMH's legal counsel before the search commences. Provide legal counsel with a copy of the warrant immediately. If legal counsel is available by phone, put counsel directly in touch with the lead investigator.

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F. Cooperate with the investigators, but **do not** consent to the search.

investigator that:

i. The employee in charge should instruct the lead

(a) IMH objects to the search;
(b) The search is unjustified because IMH is willing to voluntarily cooperate with the government; and
(c) The search will violate the rights of IMH and its employees.

ii. Under no circumstances should staff obstruct or interfere with the search. Although staff should cooperate, they should clearly state their cooperation does not constitute their consent to the search.

iii. Whenever possible, keep track of all documents and the information contained in the documents given to the investigators.

G. If legal counsel is not available, the employee in charge should contact the appropriate authority immediately and request a stop to the search. Sometimes one can negotiate alternatives to the search and seizure, including provisions to ensure preservation of all existing evidence. If the appropriate authority refuses to stop the search, request a delay of the search to enable IMH to obtain a hearing on the search warrant.

H. The employee in charge should attempt to negotiate an acceptable methodology with the investigators to minimize disruptions and keep track of the process. Considerations include the sequence of the search, whether investigators are willing to accept copies in place of originals, and if so, who will make the copies and how, whether IMH will be permitted to make its own set of copies, and arrangements for access to records seized.

I. The employee in charge should point out limitations in the search warrant specifying the premises searched and the property seized.

i. Avoid expansion beyond the proper scope of the search due to confusion or overreaching.

ii. Never consent to an expansion of the search.

iii. IMH must bring any disputes regarding the scope of the search to the attention of the proper authority or the court so the parties can settle them. However, IMH staff should not prevent the investigators from searching areas they claim to have the right to search.

iv. Investigators generally have the right to seize evidence of crimes in their "plain view" during a search, regardless of whether such evidence is in the search warrant.

J. The employee in charge should take appropriate steps to protect IMH staff members.

i. IMH should send all but essential personnel home or temporarily reassign them to other areas when they receive a search warrant for particular areas.

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- ii. Selected employees should remain, along with the employee in charge and/or IMH counsel to monitor the search.
- iii. Staff should never leave investigators alone on IMH's premises, and no employee should be alone with the investigators.

K. Object to any search of privileged documents.

- i. If there is any possibility the search will compromise privileged information, IMH should object on that basis and raise the issue with the proper authorities.
- ii. Negotiate a methodology to protect the confidentiality of any privileged information pending a resolution of these objections. For example, segregate the privileged documents from other files or request investigators to place privileged documents, unread, in sealed envelopes until the matter is resolved.

L. The employee in charge should keep a record regarding the search.

- i. Ask investigators for proper identification, including their business cards.
- ii. List the names and positions of all the investigators with the date and time. Verify the list with the lead agent and request he or she sign it.
- iii. Monitor and record the conduct of the search. Note in detail the precise areas and files searched, the search time-periods for each area, the agents who participated, and files seized. If this is not possible, before the agents leave IMH's premises, request an inventory of the documents seized.
- iv. Request the lead agent to note the date and time the search was completed as well as sign the inventory with the agent's full title, address, and telephone number.
- v. When investigators seize documents, they are required to give the occupant a copy of the search warrant and a receipt for the articles taken.
- vi. Copies of the seized documents should be requested, especially medical records, as this is the most efficient way to inventory the documents seized. However, investigators are not required to do so and may refuse the request.
- vii. Create a parallel inventory of the documents seized.
- viii. Download copies of files from hard drives of computers, and copy diskettes, especially if the material is essential to the ongoing operations of IMH.
- ix. Several individuals should monitor the different simultaneously searched areas.
- x. If an investigator orders a monitor to leave the area, contact the lead investigator. An order to leave an area should only happen if a monitor is in the way, not for an investigator to avoid observation. Never provoke a confrontation with an agent.

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M. If possible, do not release a document to the investigators unless counsel reviewed it, however, this is **not** possible for items seized under a search warrant.

N. Keep all privileged and confidential documents separate and labeled accordingly. Proper labeling should protect these types of documents.

O. If possible, videotape the search.

i. A videotape may provide evidence of undue disruption or misconduct on the part of the investigators.

ii. If the investigators claim the taping interferes with the search, the employee in charge should make a record of the refusal. Do not persist if the agents have warned that they regard the taping as an interference.