



SAN JOSE POLICE DEPARTMENT

TRAINING BULLETIN

TO: ALL DEPARTMENT PERSONNEL **FROM:** Paul Joseph
Acting Chief of Police

SUBJECT: EMERGENCY INTERIM HOUSING **DATE:** April 10, 2024
FACILITIES

Bulletin #2024-006

The City of San José currently operates two Bridge Housing Communities (BHC), four Emergency Interim Housing (EIH) sites, and one Safe Parking (SP) site:

| Type | Name, Location | Operator | Units / Beds | Target |
|------|----------------|--------------|--------------|----------------------|
| BHC | [REDACTED] | HomeFirst | 40 / 40 | Individuals |
| BHC | [REDACTED] | HomeFirst | 40 / 40 | Individuals |
| EIH | [REDACTED] | LifeMoves | 96 / 96 | Individuals |
| EIH | [REDACTED] | Abode & PATH | 48 / 121 | Families |
| EIH | [REDACTED] | HomeFirst | 82 / 124 | Individuals, Couples |
| EIH | [REDACTED] | HomeFirst | 78 / 78 | Individuals |
| SP | [REDACTED] | LifeMoves | 42 | RVs/Individuals |

BHCs and EIHs have the same purpose – they provide temporary housing for formerly unhoused individuals. The only difference between BHCs and EIHs are site design and construction. Therefore, the BHCs are often referred to as EIHs.

Site Rules

Each site develops their own rules regarding the length of stay, visitors, curfews, sober living, animals, on-site vehicle parking, etc. All sites may remove participants from their programs for violation of their rules.

“Evictions”

No rent is collected, and all those who are living at the site sign a participant contract, making them a *participant*, not a *resident*. As a result, the removal of a participant is not an “eviction.” The sites may request law enforcement response for an individual refusing to leave when they are no longer part of the program. In these cases, Department members should take the following steps:

1. Confirm with the site staff the individual is no longer welcome at the site.
2. Confirm with the site staff they have told the individual to leave.
3. Explain to the individual they are required to leave when told to do so by the site staff and that the eviction process does not apply to their residency at the site.

4. Provide the individual an opportunity to leave the premises.
5. If they refuse to leave, cite or arrest the individual for trespassing, whichever is appropriate.

Information Disclosure

During the course of an investigation, Department members may ask site staff for information regarding a client. Some site operators have written policies regarding disclosure of participant information to law enforcement, such as the policy included as Attachment 1 from HomeFirst. These policies guide the site staff on what they should and should not be disclosing. Generally, the site operators protect information using the Health Insurance Portability and Accountability Act (HIPAA) ([45 CFR Part 160](#)).

Under HIPAA, the site may disclose information to law enforcement under the following circumstances:¹

- With the consent of the client.
- To report information to a law enforcement official reasonably able to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public.
- To report information that the site in good faith believes to be evidence of a crime that occurred on the premises of the site.
- To alert law enforcement to the death of the individual, when there is a suspicion that death resulted from criminal conduct.
- When responding to an off-site medical emergency, as necessary to alert law enforcement to criminal activity.
- When required by law to do so (such as reporting gunshots or stab wounds).
- To comply with a court order or court-ordered warrant, a subpoena or summons issued by a judge, or an administrative request from a law enforcement official (the administrative request must include a written statement that the information requested is relevant and material, specific and limited in scope, and de-identified information cannot be used).
- To respond to a request for information for purposes of identifying or locating a suspect, fugitive, material witness or missing person, but the information must be limited to basic demographic and health information about the person.
- To respond to a request for information about an adult victim of a crime when the victim agrees (or in limited circumstances if the individual is unable to agree). Child abuse or neglect may be reported, without a parent's agreement, to any law enforcement official authorized by law to receive such reports.

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https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/emergency/final_hipaa_guide_law_enforcement.pdf

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When encountering site staff refusing to provide information disclosable under one of the categories above, Department members should take the following steps:

1. Explain to the staff member which bullet point(s) above apply to the information disclosure.
 - a. Department members are not required to carry a copy of this Training Bulletin with them, but it may help in explaining the purpose of the investigation and the guideline under HIPAA that allows for information disclosure.
2. If they continue to refuse to provide information, contact a supervisor for assistance.
3. If they continue to refuse to provide information, contact a watch commander for assistance.
4. If, after speaking with a supervisor and watch commander, the staff member refuses to provide information necessary to conduct the investigation, document the contact on a General Offense report. Documentation is not necessary unless the information requested is essential to the investigation and/or the refusal to provide the information creates a situation where the investigation is unable to be completed.
5. Ensure an email is sent to the Division Captain with a brief synopsis of the event and the event number for follow-up.

The following example illustrates the purpose for this procedure:

An officer is dispatched to a welfare check where a crisis hotline is reporting an individual is a danger to themselves. The crisis hotline is asking law enforcement to make contact with the individual and transport them to a facility for treatment. The crisis hotline believes the individual resides at the EIH on Evans Lane but does not have the individual's house number. Responding officers make contact at the Evans Lane office and ask if the individual resides at that site. The office staff refuses to confirm the individual lives there or provide the house number, citing HIPAA. In this example, officers should explain they are conducting a welfare check to "prevent or lessen a serious and imminent threat to the health or safety of an individual or the public," as outlined in the second bullet point above. If the staff continues to refuse to confirm the individual lives there or provide the house number, the officers should contact their supervisor for assistance. If after speaking with the supervisor, the staff continues to refuse to confirm the individual lives there or provide the house number, the watch commander should be contacted. If after speaking with the watch commander, the staff continues to refuse to provide the verification or the house number, the officers should document the interaction and the fact they were unable to conduct the welfare check in a General Offense report.



Paul Joseph
Acting Chief of Police

PJ:PH:SD

Attachment 1: HomeFirst Services Disclosure of Participant Information to Law Enforcement

Attachment 1: HomeFirst Services Disclosure of Participant Information to Law Enforcement

2/2023

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|---|--|------------------------------|--|
| HOMEFIRST SERVICES 95035 | | 507 Valley Way, Milpitas, CA | |
| Disclosure of Participant Information to Law Enforcement | | | |
| Issued By: Teresa Moore, MSW | | Issue Date: 2/2023 | |
| Last Review Date: 2/2023 | | Revision Date: | |

PURPOSE: To provide guidance when responding to requests from Law Enforcement for current or former participant, including a deceased participant information and to ensure compliance with The Limits of Confidentiality as outlined in the Health Insurance Portability and Accountability Act (HIPAA) (45 CFR Part 160)

POLICY: The Limits of Confidentiality legally allow Personal Health Information (PHI) to be exchanged without a current or former participant's written consent in certain law enforcement situations. These include, but are not limited to:

- Court Order, Warrant, Subpoena, or Administrative Process
- To Avert Harm when an individual is a danger to themselves or others
- As required under mandated reporting laws
- To identify a person if law enforcement requests information to help identify or locate a suspect, fugitive, material witness or missing person
- Investigating or in response to a crime that occurred on the premises.

The HIPAA privacy rule defines a law enforcement official as an officer or employee of any agency or authority of the United States, or a State, territory, political subdivision, or Indian tribe who is empowered to (1) investigate or conduct an official inquiry into a potential violation of law; or (2) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

In some cases, the law enforcement official may initiate the request for information and, in other cases, HomeFirst may initiate and report information without a law enforcement request. For all disclosures, HomeFirst will follow the minimum necessary rule and limit all disclosures to the minimum necessary to accomplish the intended purpose. HomeFirst will never provide more information than what is needed or asked.

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DEFINITIONS:

Court Order: an order issuing from a competent court that requires a party to do or abstain from doing a specified act

Other Administrative Process: other means by which information or action may be requested through the use of hearings and administrative law judges, such as requests for information from the IRS or through the course of discovery pertaining to legal matters and pending cases.

Subpoena: a written court order requiring a person to testify as a witness in an investigation or produce documents, papers, or other evidence

Warrant: a written court order authorizing a law enforcement officer to make an arrest, a seizure, or a search of some private area. *Not all warrants allow for search of private property.

Workforce member: employees, volunteers, trainees, and other persons whose conduct, in the performance of work for HomeFirst, is under the direct control of HomeFirst, whether or not they are paid by HomeFirst. This includes contractors and individuals placed through a temporary placement agency who provide core or direct services to HomeFirst participants or business operations. This definition is not meant to include vendors or contracted service personal who perform maintenance, inspections, repair or construction to HomeFirst facilities and equipment.

PROCEDURES:

Actions Initiated by HomeFirst

- A. For the purposes of Mandated Reporting for Child, Elder or Depended Adult abuse/neglect:
 - a. All HomeFirst workforce members are expected to follow Mandated Reporting guidelines and must break confidentiality if:
 - i. They have observed or have knowledge of abuse or neglect of a child, elder or dependent adult.
 - ii. A child, elder or dependent adult tells you that they have experienced abuse or neglect.
 - iii. You have reason to suspect abuse or neglect.
 - b. To make a report of suspected abuse, the person making the report will first make a telephone report, and then submit a written report as outlined below.
 - i. To report suspected child abuse or neglect
 - 1. Step 1: Phone Call: Immediately or as soon as practically possible.
 - a. Law Enforcement: If there is a crime currently in progress or immediate danger to the victim, contact law enforcement immediately.

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- b. Child County Welfare Department (Sometimes referred to as CWS or CPS): when there is no immediate danger to the victim a report should be made to the local Child County Welfare Department.
 - 2. Step 2: Submit written report (BCIA 8572) within 36 hours.
 - ii. To report suspected elder or dependent adult abuse or neglect
 - 1. If the suspected abuse occurred **OUTSIDE** of a long-term care or licensed facility:
 - a. Step 1: Phone Call: Immediately or as soon as practically possible.
 - i. Law Enforcement: If there is a crime currently in progress or immediate danger to the victim, contact law enforcement immediately.
 - ii. Adult Protective Services: When there is no immediate danger to the victim a phone report should be made to local Adult Protective Services (APS).
 - b. Step 2: Submit written report (Form SOC 341) within 2 working days.
 - 2. If the suspected abuse occurred **INSIDE** of a long-term care or licensed facility and resulted in serious bodily injury:
 - a. Step 1: Phone Call: Report to law enforcement immediately, and no later than 2 hours after observing, obtaining knowledge of or suspecting abuse
 - b. Step 2: Submit written report within 2 hours.
 - 3. If the suspected abuse occurred **INSIDE** of a long-term care or licensed facility and did not result in serious bodily injury:
 - a. Step 1: Phone Call: Within 24 hours to law enforcement
 - b. Step 2: Submit written report within 24 hours
 - c. Complete an internal Incident Report.
- B. To avert harm when an individual is a danger to themselves or others.**
- a. HomeFirst may disclose participant information to law enforcement authorities if they believe in good faith that the disclosure is necessary for identification or apprehension of an individual who poses an imminent threat to themselves or others. The good faith belief may be based on the following:
 - i. The individual makes a statement that causes reasonable belief that the individual will cause serious physical harm to himself or others.
 - ii. The individual is gravely disabled and unable to provide for their own care and wellbeing.
 - b. For all disclosures made under this category, HomeFirst will follow the minimum necessary rule and limit all disclosures to the minimum necessary to accomplish the intended purpose.

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- i. If the participant has made credible threats directed towards a reasonably identifiable individual, HomeFirst will in accordance with Section 43.92 of the California Civil Code warn and/or protect the individual of the threat.
 - 1. If there is reasonable belief that warning the individual will result in increased risk of harm, staff will consult with their immediate supervisor or director to determine alternative steps to be taken to protect the individual towards whom the threat was made.
 - a. All alternative steps taken must be documented.
- c. Investigating or in response to a crime that occurred on the premises.
 - a. HomeFirst may disclose participant information without written consent in response to a crime that occurred on the premises. Information shared can include information (including photo and video) to assist in investigation, identification and/or apprehension relating to the crime. Information shared must be limited to that which is necessary to investigate the suspected crime.
 - b. HomeFirst may also disclose participant information without written consent that it obtained in the course of service provision at a location other than a HomeFirst facility to report crime in emergencies if the disclosure appears necessary to alert law enforcement to:
 - i. The commission and nature of a crime
 - ii. The location of the crime or the victim(s) of the crime
 - iii. The identity, description, and location of the perpetrator of the crime.

Actions Initiated by Law Enforcement

For all disclosure actions initiated by law enforcement, HomeFirst will verify the identity of the individual(s) making the request to ensure that they are law enforcement officers before disclosing any participant information.

1. **In person requests:** Managers or Shift Supervisors at each site will be responsible for taking the lead on interactions with law enforcement. If a manager or shift supervisor is not available, the manager or director on call should be contacted, following the appropriate chain of command.
2. The designated individual on duty or on call should be contacted immediately if at any time an individual enters a HomeFirst facility and identifies themselves as a law enforcement officer. The designated individual will assume the lead and will conduct all interactions with law enforcement and other staff will support as requested.
3. The designated individual will request to see the officers' badge or other law enforcement identification. The name of the individual, badge or identifying documentation number and agency will be recorded.

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4. Requests made by phone or email: If an individual calls a Home First facility, or emails a request, staff will verify the identity of the individual in the following manner:
 - a. Request the name, agency and department that they work for.
 - b. If the request was received by phone: Inform the individual that you will need to verify the information and end the call.
 - c. If the request was received by email: Inform the individual that you will need to verify the information and do not provide additional information in your response.
 - d. Using an internet search engine such as Chrome, Firefox or Explorer, search the agency and department and locate the non-emergency number for that department.
 - e. Call the number and ask for the individual whose name was given to you.
 - f. If the individual is in the field, request dispatch to confirm that the individual works for that department.

- A. Court orders, subpoena, warrants or other administrative process
 - a. After confirming the identity of the officer(s), request to view any documentation they have such as warrants, subpoenas or administrative process orders. Make a copy of any and all documentation provided and provide a copy to manager/director and compliance officer.
 - b. Review the submitted documents and ensure that they appear to be properly signed and appears to be valid. Refer to *Warrants, Subpoenas and Common Administrative Processes Guide* for guidance and instructions on common documentation and verification processes.
 - c. If it is not properly signed or does not appear to be valid politely inform the officers that you cannot disclose any information and the reason why.
 - d. If the documentation is signed and appears to be valid, verify that the following three criteria are met:
 - i. The requested information is relevant and material to a legitimate investigation.
 - ii. The requested information is specific and limited in scope.
 - iii. De-identified information cannot reasonably be used.
 - e. If all three criteria are met, you may proceed with providing the requested information and disclosure.
 - f. Read the wording to find out what rights it gives the officers.
 - g. Follow the minimum necessary rule and limit all disclosures to the minimum necessary to accomplish the intended purpose. Do not provide more information than what is specified in the documentation.
 - h. If you are unsure, consult with your supervisor or Compliance Officer prior to disclosing any information.
 - i. Keep a record of all disclosures made and information provided to law enforcement.

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- j. Complete the Disclosure Account Report and submit it to Compliance Officer within 24 hours. The Compliance Officer will keep a record of all Law Enforcement disclosures and will provide an account of all such disclosures to participants in accordance with the HIPAA privacy rule and the Right to Disclosure Account Policy and Procedure

B. To identify a person or to help locate a suspect, fugitive, material witness or missing person.

- a. If law enforcement officers request information for the purpose of locating a suspect, fugitive or material witness, we are permitted to provide limited information.
 - i. Verify the identity of the officer(s) and document the name of the individual, badge or identifying documentation number and agency.
 - ii. In all three of these situations, disclosures must be limited to the following:
 - 1. Name and address
 - 2. Date and place of birth
 - 3. Social Security Number
 - 4. Dates of program enrollment
 - 5. Description of distinguishing physical characteristics.
 - iii. Keep a record of all disclosures made and information provided to law enforcement.

Complete the Disclosure Account Report and submit it to the Compliance Officer within 24 hours. The Compliance Officer will keep a record of all Law Enforcement disclosures and will provide an account of all such disclosures to participants in accordance with the HIPAA privacy rule and the Right to Disclosure Account Policy and Procedure.

C. If officers force their way into a private/non-public area without valid documentation, do not attempt to resist and do not attempt to physically interfere with the officer(s)/entry.

- a. Remain calm.
- b. Try to safely get names and badge numbers.
- c. Always keep your hands in front of you where the officer(s) can see them.
- d. Do not make any sudden movements or reach for anything without letting the officer(s) know what you are doing.
- e. Once safe, notify the Compliance Officer immediately.
- f. Complete an Incident Report.

APPLIES TO: All HomeFirst workforce members

RELATED FORMS/DOCUMENTATION:

Disclosure Account Form

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Incident Report
Request for Disclosure Accounting Form
Right to Disclosure Account Policy and Procedure