



Training Bulletin

SANTA BARBARA POLICE DEPARTMENT



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VOL. 2014 NO. 004

April 9, 2014

ACCESS TO PATIENTS OR RECORDS AT COTTAGE HOSPITAL

Action Required

- Information for all personnel

➤ DISCUSSION POINTS –

- The Santa Barbara Police Department maintains a healthy and professional working relationship with Cottage Hospital
- Cottage Hospital's policy is guided by complying with California laws and HIPAA regulations.
- Cottage Hospital provides a condensed informational card containing information to assist officers in understanding procedures for obtaining access to patients or patient records (attachment to this training bulletin).
- Cottage Hospital has specific policy rules and regulations dealing with access to patients and release of personal information to law enforcement agencies (attachment to this training bulletin).

➤ DEFINITIONS

- Law Enforcement Agency (LEA): HIPAA privacy rules define a law enforcement agency as any agency or authority of the United States, a State, territory, political subdivision, or Indian tribe that 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.
- Protected Health Information (PHI): Individually, identifiable health information that is transmitted or maintained in electronic media or any other form or media
- Individually, Identifiable Health Information: Health information (including demographic information) that identifies or can be used to identify an individual.
- No Information Patient: A patient who has requested that no information, under any circumstances, concerning their admission or location in a Cottage Hospital facility be acknowledged or released to anyone, including law enforcement agencies

- Exigent Circumstances: an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, forestall the imminent escape of a suspect, or destruction of evanescent evidence.

➤ **COTTAGE HOSPITAL MANDATED REPORTING PER SECTION 11160 PC**

- Cottage Hospital is a mandated reporter of 23 different crimes of violence.
- Per 11160(b)(1) PC, Cottage Hospital is mandated to immediately make telephonic notification to law enforcement when they suspect any of the listed violent crimes comes to their attention. Usually, this will come into our 911 dispatch center; the required areas of information Cottage staff are mandated to relay to law enforcement through telephonic means are:
 - **The name of the injured person**
 - **The injured person's whereabouts**
 - **The character and extent of the person's injuries**
 - **The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.**
- At the time our 911 center receives telephonic notification that Cottage Hospital is reporting a crime of violence per section 11160 PC, the dispatcher shall ensure the above information is obtained and relayed to the responding officer.
- When summoned to Cottage Hospital upon a mandated report per 11160, Cottage Hospital will, at a minimum, release the above information to the investigating officer.
- Cottage Hospital will make telephonic contact the Combined Communications Center utilizing either 911 or a business line.
- Additionally, 836(b) PC mandates peace officers called to investigate domestic violence calls to make a good faith effort to inform victims of his/her right to make a citizen's arrest in cases of 243(e)(1) PC.

➤ **OFFICIAL BUSINESS AT A COTTAGE HOSPITAL FACILITY**

- Officers who respond to Cottage Hospital with a suspect in custody in need of treatment have unrestricted access (with the exception of medical necessity) to the person in their custody.
- When contacting a patient at Cottage Hospital in response to an investigation, an escort is required for access to a patient, however, the person escorting you may not be present during an interview with the patient.
 - Officers may utilize the listed telephone number to directly call and have security meet law enforcement: (805) 569-7319 or;
 - Officers may notify dispatch to contact Cottage to have a security officer meet them upon arrival.
 - The location to meet the security officer is the Junipero side entrance to the Emergency Department

➤ **LEVELS OF LAW ENFORCEMENT CONTACT OF PATIENTS OR RECORDS**

- Consensual access

- The patient agrees to speak with law enforcement
- Cottage Hospital personnel will accommodate and facilitate access to the patient or patient records to the requesting officer
- Access via court order
 - A search warrant is obtained to gain access to a patient or patient records
 - Once a court order is provided to Cottage Hospital, hospital personnel will accommodate law enforcement
- Access through exigent circumstances
 - Two separate exigency forms are provided by Cottage Hospital to gain access
 - It is the officer's responsibility following gathering information regarding the investigation at hand to determine what level of documentation is necessary to provide to Cottage Hospital to gain access to a patient or patient records.

➤ **EXIGENCY FORMS**

- Exhibit A (Cottage Hospital form): "Request for protected health information for law enforcement investigation"
 - "Check the box" form
 - For emergency situations
 - Medical records only, not for access to a patient
 - Serves to indemnify Cottage Hospital from HIPAA
- Exhibit B (Cottage Hospital form): "Request for access to interview patient under exigent circumstances"
 - An emergency situation must exist consisting of any of the following:
 1. Prevent imminent danger to life to any person(s)
 2. Prevent imminent serious damage to property
 3. Forestall the imminent escape of a suspect
 4. Forestall the imminent destruction of evidence
 - Serves to indemnify Cottage Hospital from HIPAA violations
 - A true exigency must exist
 1. The form provides narrative format for the officer to fill in details of the exigency
 2. The officer is to briefly describe the exigent nature and need for immediate access to the patient
- Pre-filled exigency template forms
 - For use with Cottage's mandated reporting of crimes per 11160 PC

➤ **SEARCH WARRANTS**

- If a patient at Cottage Hospital invokes the privilege of being a "no information patient" or refuses to speak to law enforcement, hospital staff will not facilitate access to the patient
 - In cases where no exigency exists, a search warrant for access to the patient or records must be sought

- A search warrant is not necessary for suspects in custody

➤ **INTERVIEWING COTTAGE HOSPITAL PERSONNEL**

- If a Cottage Hospital employee needs to be interviewed for an investigation, the following procedures must be followed.
 - Arrangements must be made prior to interview employees of Cottage
 - Interviews are conducted at an off-site location
 - Contact Employee Relations Department at 569-8934