

<b>Policy Number:</b> QA7.041	<b>Policy Section:</b> Quality Assurance	<b>Effective:</b> April 1, 2010 <b>Amended:</b> November 24, 2016
<b>Title:</b> Legal Requirements Policy		<b>Executive Sponsor:</b> Director, Quality Assurance

## 1. PURPOSE

This policy provides information and guidance to staff in responding to subpoenas, search warrants, summons, lawful investigations and other legal processes that are directly related to CLBC operations. It applies to all CLBC staff.

## 2. DEFINITIONS

**Coroner's Service:** An agency within the Ministry of Justice governed by the BC *Coroners Act*. It investigates unnatural, sudden and unexpected, unexplained or unattended deaths, and has legal authority to compel the production of records and attendance of witnesses.

**Lawful Investigations:** Inquiries conducted by legislatively-authorized bodies such as police, ombudsperson, or coroner's service.

**Legal Services Branch:** A section of the Ministry of Justice that provides legal advice and representation to government and government bodies. The people who provide this service are lawyers and are generally referred to as legal counsel. One specific legal counsel is assigned to CLBC.

**Ombudsperson:** An independent officer of the provincial legislature who is appointed under the *Ombudsperson Act*. S/he investigates complaints about the conduct of government authorities, including CLBC, and makes recommendations regarding administrative fairness. S/he has the same powers as a court to require that records be produced.

**Search Warrant:** A written court order entitling law enforcement officer(s) to search a defined area and seize certain property.

**Subpoena:** A document requiring a person to attend court to be a witness and give oral evidence under oath regarding a matter of which they have personal knowledge.

**Summons:** An official order requiring a person to appear before a court, either to answer a charge or to give evidence.

**Warrant:** A written order issued by a justice, authorizing law enforcement officer(s) to make an arrest, seize property, make a search, or carry a judgment into execution.

### 3. POLICY

CLBC staff comply with the requirements of properly-served legal documents, such as warrants, search warrants, summons and subpoenas; and with lawful investigations, including orders or requests for records; that are related to CLBC operations. CLBC staff inform and seek the advice of the CLBC Director, Quality Assurance and legal counsel at the Legal Services Branch before responding to such situations.

Within the bounds of such legally-required compliance, CLBC staff protect the privacy and confidentiality rights of individuals, as defined elsewhere in CLBC policy.

### 4. PROCEDURES

When presented with an event or situation covered by this policy, the following procedures apply:

#### 4.1 Staff:

- Advise the Integrated Service Manager immediately. If the Integrated Service Manager is not available, notify an alternate Integrated Service Manager.
- Arrange to have legal documents served on legal counsel at the Legal Services Branch, rather than on a CLBC staff person wherever possible (other than subpoenas and warrants covered in the section *When Served with a Warrant or Subpoena*).
- Ensure that legal counsel has been consulted before releasing any documents related to events covered by this policy to a potentially affected individual or service provider.

#### 4.2 Integrated Service Managers:

- Advise and consult with the Manager, Quality Assurance.
- Inform the Director, Regional Operations.
- If there is no time for consultation, provide immediate notification to the Manager or Director, Quality Assurance and the Director, Regional Operations.

#### **When Served with a Warrant or Subpoena**

Subpoenas and warrants are in a class of their own, as they are *required* to be served on the individual that is named in the warrant or subpoena. This is different from all other types of legal documents, as both subpoenas and warrants compel an individual (not the organization) to take a particular action.

4.3 Staff, who are served with a subpoena or warrant, bring this to the attention of their Integrated Service Manager, the Manager, Quality Assurance and CLBC's legal counsel, directly after they are served.

4.4 Staff ask law enforcement officers with a warrant to wait while an Integrated Service Manager is informed and a copy is faxed to legal counsel. If possible, staff await the advice of an Integrated Service Manager, the Manager, Quality Assurance and/or legal counsel, before any search or other action by law enforcement officers proceeds.

4.5 When served with a subpoena, staff discuss the matter with CLBC legal counsel prior to attending court or providing any records. Staff do not discuss the matter with or provide records to a lawyer for any other party.

#### **When an Individual, Family Member or Service Provider Brings Legal Counsel to a Meeting**

4.6 Staff follow appropriate consultation (Section 4.1) prior to the meeting, if they have advance notice.

4.7 Where an individual, family member or service provider unexpectedly comes to a meeting with legal counsel, staff advise them that they must consult with their Integrated Service Manager. Where possible, the Integrated Service Manager, or staff person if so directed by an Integrated Service Manager, consults with legal counsel and the Manager, Quality Assurance before continuing with the meeting.

#### **When in Receipt of an Order to Produce Records**

4.8 Staff do not produce records until legal counsel has seen the order. This is because legal counsel may wish to seek a return to court to include terms to protect the privacy of informants and/or third parties.

4.9 Once approved by legal counsel, staff print any required records rather than providing access to PARIS to a law enforcement officer.

#### **When in Receipt of a Letter or a Call from a Lawyer Representing Another Party**

4.10 Unless otherwise advised by the Manager, Quality Assurance, staff refer the letter or call to legal counsel.

#### **Role of the Manager, Quality Assurance**

4.11 The Manager, Quality Assurance:

- Provides advice and support to Integrated Service Managers and staff
- Acts as the key liaison with legal counsel on CLBC's behalf
- Advises legal counsel immediately of events covered by this policy and provides relevant documentation to legal counsel. Notifies alternate legal counsel identified by Legal Services Branch if the CLBC assigned legal counsel is not available, and immediate action is required
- Consults with legal counsel about the appropriate response to specific situations.
- Identifies potential improvements within the organization indicated as a result of legal actions or involvements
- Tracks all events covered by this policy
- Informs the Director, Quality Assurance of events covered by this policy

If the Manager, Quality Assurance is not available, a Director, Regional Operations or Integrated Service Manager may consult with the Director, Quality Assurance or legal counsel.

## **5. DOCUMENTATION**

**5.1** Copies of any documents pertaining to an event covered by this policy are provided to the Manager, Quality Assurance immediately.

**5.2** Staff document all events covered by this policy, and their actions in response to them, in PARIS.

**5.3** Staff scan any legally-served documents related to an individual and file on SharePoint.

## **6. PRACTICE**

**6.1** Complying with legal requirements while honouring individuals' confidentiality rights may require judgement. While the legal requirements take precedence, staff are encouraged to balance them as much as possible with the right to confidentiality and the best interests of individuals. Integrated Service Managers, Directors, Regional Operations, and the Manager, Quality Assurance can provide support in this.

**6.2** The legal framework governing privacy and information sharing is found in the *Freedom of Information and Protection of Privacy Act* and summarized for staff in the *Confidentiality and Information Sharing Policy*.

## **7. REFERENCES**

Confidentiality and Information Sharing Policy  
Organisational Privacy Policy  
*Freedom of Information and Protection of Privacy Act*