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| Chapter: | Governance and General Administration | | |
| Title: | Subpoena, Court Orders and Search Warrants | | |
| Policy: <input checked="" type="checkbox"/> Procedure: <input type="checkbox"/> | Review Cycle: Triennial Author: CEO/Designee | Adopted Date: 8.2020 Review Date: 10.2023 | Related Policies: Delegation to the CEO and Executive Limitations Confidentiality and Privacy |

Purpose:

Hopeful Horizons' (HHs') Confidentiality and Privacy policy clarifies and provides guidance for the special protections and related exceptions afforded to victims of domestic violence, sexual assault and child abuse. HH has adopted this policy to address the privacy and confidentiality exceptions specific to court orders, subpoenas and search warrants.

Scope:

This policy applies to:

- All HH Staff Selected HH Staff, as specified:
 HH Board Members HH Volunteers
 Other:

Policy:

HH shall cooperate with any appropriately executed and authorized subpoena, court order or search warrant; however, the organization reserves the right to assert all protections afforded it by law in protecting the confidentiality and privacy of the organization and its clients.

HHs' Chief Executive Officer (CEO)/designee shall be immediately notified and is the responsible party to handle service of court orders, subpoenas or search warrants in which the organization is the named recipient. In the absence of the CEO/designee, contact the department head of the probable program being referenced in the subpoena/court order. The CEO/designee shall determine if legal consultation is necessary in responding or objecting to a court order, subpoena or search warrant.

- A. **Court Orders and Subpoenas:** HH shall make every legally permissible effort to protect client information in accordance with its Confidentiality and Privacy Policy. HH may challenge a court order or subpoena by objecting to the scope, its relevance, that it was filed improperly or by asserting privilege. HHs' CEO/designee shall issue a formal response to a subpoena or court order that is deemed not to be properly executed and believed to put protected information at risk. The response shall include:

HH is prohibited from providing mental health records or testimony concerning those records without a court order, which also verifies that the victim has been notified of the subpoena and given the opportunity to consent or object. (See, State v. Blackwell, 801 S.E.2d 713, 420 S.C. 127 (S.C. 2017).

Client forensic interview records are considered evidentiary and "privileged and protected," therefore, a general authority to access records is not sufficient for disclosure without a court order to include language that protects the confidentiality of the minor child's records.

HH cannot accept subpoenas or court orders on behalf of clients unless the client is being represented by HHs' staff attorney and an agreement exists between the client and the staff attorney that the attorney will accept service on their behalf. HHs' staff shall notify the client of any attempted service and help the client arrange for safe service. If the client does not wish to release their information, HH may provide legal support and attempt to quash subpoenas or court orders on the client's behalf.

- B. Search Warrant: Before permitting search of any HH facility, designated staff shall verify the warrant is valid and contains all of the following:
1. HH or its CEO as the named recipient and proper address of the location to be searched
 2. The date the warrant was issued
 3. The name of the judge who issued the order and the judge's signature
 4. The specific agency that's been authorized to conduct the search
 5. A description of the place or places to be searched
 6. A description of the items that are being searched for
- C. Client Arrest Warrant: If Law Enforcement comes to the shelter or other HH facility to arrest a resident/client, they must have both an arrest and search warrant. The search warrant is required to protect the privacy rights of other clients in service treatment settings and residents of the shelter, which is considered a community living facility. Any search warrant must contain the correct physical address of the shelter and must be specific as to what or whom they are searching for (see B).

The director of residential services and CEO/designee must be notified by phone immediately so that they can review the warrant for validity before Law Enforcement is admitted. Staff shall make every effort to protect the privacy and confidentiality of shelter residents as a search is being executed.

Communication and Training:

The Board shall receive a copy of the policy at the time of periodic review and will have an opportunity to ask clarifying questions during the approval process. Employees and volunteers shall receive notice of the Board's policy review and approval including notice of any substantive changes. The notice will provide a link to the policy located on the HH website.

Front Desk Advocates, Shelter staff and related volunteers shall receive specific training on this policy and its associated procedure as part of initial orientation.

The CEO's succession plan shall include specific training on this policy and related procedures for staff in the line of succession or designated as the administrator in charge.

Definitions:

1. Arrest Warrant: A legal document issued by a magistrate or municipal judge, based on probable cause that allows law enforcement to arrest a person. A judge need not use specific legal language when stating the charges in an arrest warrant; however, he must be clear enough in the description of the alleged offense so that the defendant understands the charges alleged against him. To avoid confusion, the judge should issue separate warrants for each defendant and for each offense.

2. **Court Order:** A written direction or command delivered by a court or judge. Such a ruling requires or authorizes the carrying out of certain steps by one or more parties to a case. A court order must be signed by a judge.
3. **Privilege:** Information protected by legal privileges, such as attorney-client privilege or doctor-patient privilege, which may limit the ability to disclose that information in response to a subpoena.
4. **Probable Cause:** A legal standard of proof that means, based on evidence or the specific circumstances of a case, it's reasonable to believe that a person has committed a crime; or to permit search of a location or person when it is believed evidence of a crime will be found in the search.
5. **Quash:** Summarily and completely suppress; nullify especially by judicial action.
6. **Search Warrant:** A search warrant is a document signed by a judicial officer or magistrate that provides law enforcement with authority to search a place or person. The warrant must provide a description of the person or place to be searched and must be based on facts that establish probable cause to believe that whatever will be search contains evidence of a crime.
7. **Subpoena:** A subpoena is a legal document that orders a person or organization to appear in court, produce documents or other materials, or testify as a witness in a legal proceeding. Subpoenas are typically issued by courts, attorneys, or government agencies and are used in a variety of legal settings, including criminal trials, civil lawsuits, and administrative hearings. They may be served to people, businesses, or organizations. Failure to comply with a subpoena can result in legal consequences.

Other Related Materials:

Receiving and Responding to Subpoenas, Court Orders, Search Warrants or Arrest Warrant Procedure
 Subpoena Response Letter

References/Legal Authority:

[Court Orders and Subpoenas, US Department of Health and Human Services, 2023.](#)

[Subpoena Law, Legal Match, 2023.](#)

Change Log:

| Date of Change | Description of Change | Responsible Party |
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| 10.2023 | The policy is updated to the new format; adds communication and training, definition, other related materials and references. | N. Miller, Prog. Eval. Consultant |
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