



American College of  
Emergency Physicians®

ADVANCING EMERGENCY CARE 

# POLICY STATEMENT

Approved June 2023

## *Law Enforcement Information Gathering in the Emergency Department*

Revised June 2023, June  
2017, April 2010

Originally approved  
September 2003

As an adjunct to this policy  
statement, ACEP has  
prepared a Policy Resource  
and Education Paper “Law  
Enforcement Information  
Gathering in the  
Emergency Department:  
Legal and Ethical  
Background and Practical  
Approaches”

The American College of Emergency Physicians (ACEP) believes that emergency physicians have a fundamental professional responsibility to care for all patients seeking emergency medical treatment and to protect the confidentiality of their patients’ personal health information accessed in the process. Federal and state laws, including the Emergency Medical Treatment and Labor Act (EMTALA) and the health information privacy regulations implemented under the Health Insurance Portability and Accountability Act (HIPAA), articulate and reinforce this responsibility.

ACEP recognizes that law enforcement officials perform valuable functions in the emergency department (ED), and that one of these functions is investigation of criminal acts. As part of these investigations, law enforcement officials may request personal health information (PHI) gathered in the ED. Emergency physicians may honor these requests only under the following circumstances:

1. The patient consents to release of the requested PHI to law enforcement officers, or
2. Applicable laws or regulations mandate the reporting of the requested PHI to law enforcement officers, or
3. Law enforcement officers produce a subpoena or other court order requiring release of the requested PHI to them.

Law enforcement officers may, in some situations, present search warrants or other court orders as grounds for requesting or directing that emergency physicians perform physical examinations, collect physical evidence, perform diagnostic tests, or conduct body cavity searches on ED patients who refuse these interventions.

These situations present emergency physicians with the obligation to respect patients’ refusals of treatment, to promote trust in the therapeutic relationship, and to protect patients from harm. This can be in contrast to the obligation to obey legal authorities and to carry out socially imposed mandates to promote public health and public safety.

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ACEP supports emergency physicians in exercising their considered judgments regarding which set of obligations is more compelling in these specific situations.

ACEP believes that patients have the right to consent to or refuse examinations or evidence gathering. If patients do not consent, and there is no medical indication for a procedure, the procedure should not be performed in the ED. Emergency physicians may conscientiously refuse to carry out or comply with legal orders that they deem violate emergency patient and privacy-related rights or jeopardize the welfare of their patients, recognizing that there may be legal or professional repercussions for these decisions. These repercussions may include contempt of court or malpractice claims.

In their interactions with ED patients, law enforcement officers may use video or audio recording devices. ACEP believes that because these recordings may include interaction or communication between ED patients and physicians or other ED staff, they should only be made with the consent of all parties.

Law enforcement information gathering activities in the ED should not interfere with essential patient care.