

# Canadian Cooperative Wildlife Health Centre (CCWHC) Data Sharing/Confidentiality Policy

**1. Effective Date:** September, 2007

## **2. Purpose**

To ensure the effective and consistent application of the provisions of the *Privacy Act*, the *Personal Information and Electronic Documents Act* and the *Local Authority Freedom of Information and Protection of Privacy Act* as well as accompanying regulations. In addition, to define and clarify issues such as intellectual property, publication rights, data ownership, data disclosure, and data confidentiality.

To assure sponsoring agencies that the CCWHC is responsible with establishing and maintaining standards of care that are in conformity with government and University policies and Federal/Provincial/Territorial legislation.

To define and clarify the use of the CCWHC data use agreement and CCWHC confidentiality agreements.

## **3. Scope and Application**

This policy has been developed in the context of, and is designed to complement the *CCWHC Privacy Policy*, the *CCWHC IT and Data Use Agreement*, the *CCWHC Privacy Policy and Data Use Agreement Guidelines*, and the *CCWHC Data Security Policy*. In addition it is designed to compliment existing University policies and regulations, particularly those governing computer use and intellectual property. Additional policy consideration was given to federal government policies pertaining to data security, privacy, and data management, specifically those derived from the Treasury Board of Canada, Public Works and Government Services Canada, and the Office of the Privacy Commissioner of Canada.

Ultimate disclosure of CCWHC data is governed by legal contracts and agreements with external sponsors, granting agencies, and others, as well as the Provincial *Local Authority Freedom of Information and Protection of Privacy Act* (SK) and the Federal *Personal Information Protection and Electronic Documents Act* (PIPEDA).

## **4. Definitions**

**Intellectual Property** –There are no “intellectual property” rights that reside in CCWHC data. Broadly speaking intellectual property law refers to and protects the intangible or intellectual nature of an object, there are traditionally five areas of intellectual property, none of which pertain to CCWHC data in normal circumstances, these are; patents, trademarks, industrial designs, confidential information and trade secrets, and copyright. Data ownership and publication rights, which do pertain to CCWHC data, are separate and

distinct from intellectual property, the sharing of data that may be confidential in nature is best dealt with by written contractual arrangements i.e. a Confidentiality Agreement.

**Confidential Information** – for the purposes of the CCWHC “confidential information” can be summarized as including all personal information (see the *CCWHC Privacy Policy and Data Use Agreement Guidelines*) as well as information of a sensitive nature, such as embargoed test results.

## 5. Policy

Wildlife disease data is a CCWHC resource that may be used and relied upon by many users. Access to this data should only be granted when a legitimate need for the data is demonstrated and only when release of such data would not violate CCWHC stewardship obligations, privacy legislation, or legal contracts. Further elucidation regarding the restrictions placed upon access and disclosure of personal information contained in the CCWHC National Wildlife Disease Database can be found in the *CCWHC Privacy Policy and Data Use Agreement Guidelines*. A multitude of considerations arise once the decision to share CCWHC data is made, these include issues pertaining to publication rights, data ownership and privacy/confidentiality issues.

CCWHC data must be used only by those persons duly authorized to access and use the data by virtue of their position at the CCWHC or their relationship to it, and only for the purpose for which use has been authorized. Authorization for access to data is not transferable.

### 5.1 Roles and Responsibilities

Government guidelines, including those pertaining to privacy and security as well as the *PIPEDA* state the requirement for organizations to appoint a Privacy Co-ordinator (or Chief Information Officer). The CCWHC Director of Policy, Finance, and Administration will fulfill this role, responsibilities include the duty to ensure that users are knowledgeable about and in compliance with federal and provincial privacy legislation. Responsibilities also include the drafting of policies exemplifying conformity with legislation and guidelines as well as assuring conformity between CCWHC practices and CCWHC contractual agreements. For more information please review the *CCWHC Data Security Policy*.

CCWHC Regional Directors are responsible for monitoring adherence to this policy within their regions and for directing inquiries, concerns, and questions to the Director of Policy, Finance and Administration.

CCWHC data must be stored in such a way as to ensure that the data is secure, and that access is limited to authorized users. Secure storage of CCWHC data is a joint responsibility of system and network administrators, database designers, application designers, and the data user who must ensure that passwords and other security mechanisms are used.

## **5.2 Intellectual Property, Data Ownership, and Publication Rights**

It is important to make the distinction between publication rights, data ownership and intellectual property rights, publication rights and data ownership are independent of intellectual property and in the vast majority of instances there is no intellectual property associated with CCWHC activities. Data ownership is subject to contractual agreements with our sponsoring agencies as well as to whether the information is available for public dissemination (if so there is no “ownership” of the data i.e. it is publicly owned). Ultimate ownership of data stored in the CCWHC National Wildlife Disease Database resides with the CCWHC and the University of Saskatchewan.

Publication of research data is an unfettered right of the CCWHC. Host university policies stipulate that all research must have the opportunity to be published upon. Furthermore, contractual agreements involving Canadian Universities can not defer the publication of data beyond a stated period, usually 12 months from the termination of a project. In situations where a sponsor provides information essential to the research which, at the time it is provided, is labeled "Confidential Information", the University and the CCWHC will observe such confidentiality, provided the results of the research may be published in a form that does not disclose the confidential information.

Publications based on CCWHC research and/or data by non-CCWHC individuals is, by default, based on access to the data itself, access is governed by the CCWHC data use agreement and application form or by a specific data sharing/confidentiality agreement, both agreements stipulate the need to seek permission to publish on the basis of the data in question and to cite the CCWHC as a reference. The addition of a clause on CCWHC reports reiterating the need to seek permission and to cite the CCWHC as a reference will further assist in greater compliance. All data sharing/confidentiality agreements involving data residing in the CCWHC database should be coordinated by the Principle Investigator responsible for the research project, as well as by the CCWHC Director of Policy, Finance and Administration, this will ensure conformity with Federal /Provincial/ Territorial legislation, CCWHC contractual agreements and applicable policy.

## **5.3 Confidentiality/Data Sharing Agreements**

Government guidelines state that, in general, any sharing of personal information should be supported by a written Data Sharing/Confidentiality agreement. Such an agreement will clarify the rights and obligations of all parties in a data sharing activity and thereby ensure compliance with applicable legislation.

A distinction needs to be made between a data sharing agreement and merely the completion and signature of the data user agreement. Employment of the data user agreement is a minimum requirement, and is necessary for the establishment of a database or closed website account. The implementation of a data sharing/confidentiality agreement is entirely circumstantial and the use of such an agreement is dependent on the nature of the information, the purpose for the disclosure, the identity of the data user

(institutional and/or individual) and contractual/legislative requirements. Generally speaking, for more in depth circumstances the data use agreement will not be sufficient and a confidentiality agreement will be required, questions concerning the use of and the implementation of Data Sharing/Confidentiality agreements should be directed to the CCWHC Director of Policy, Finance and Administration. In most instances the CCWHC is free to enter into confidentiality agreements pertaining to CCWHC data, however, if there is monetary compensation or in some instances when the CCWHC is the recipient of confidential data University approval may be required. Assuming there is nothing legally barring the sharing of the data in question or alternatively legally or contractually requiring the sharing of data, the ultimate decision to share the data should be made by the principle investigator/researcher to whom the data pertains to.

## **6. References**

### Legislation (and accompanying regulations)

*Local Authority Freedom of Information and Protection of Privacy Act*

*Freedom of Information and Protection of Privacy Act*

*Access to Information and Protection of Privacy Act*

*Personal Information Protection and Electronic Documents Act*

*Privacy Act*

*Access to Information Act*

### Related Policies

*CCWHC Privacy Policy*

*CCWHC Information Technology and Data Use Agreement*

*CCWHC Privacy Policy and Data Use Agreement Guidelines*

*CCWHC Data Security Policy*

*Access to Information (Treasury Board of Canada)*

*Policy on Management of Information Technology (Treasury Board of Canada)*

*Privacy and Data Protection (Treasury Board of Canada)*

*Policy on Information Management (Treasury Board of Canada)*

*Policy Framework for Information and Technology (Treasury Board of Canada)*

*Implementation Guide for the Policy: Title to Intellectual Property Arising Under Crown Procurement Contracts (PWGSC)*

*University of Guelph Publications Policy*

*University of Guelph Protection of Privacy and Access to Information Policy*

*University of Saskatchewan Policies - Data Management, Data Access and Data Use*

*University of Saskatchewan Policies-Publications Policy (Research)*

*University of Saskatchewan Policies-Computer Use*

*University of Saskatchewan Faculty Association Collective Agreement 2007-2009*

## **7. Contact**

CCWHC Director of Policy, Finance and Administration, phone 306.966.6060