



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

Effective Date: September, 2007

## 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 CWHC 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 CWHC data use agreement and CWHC confidentiality agreements.

## Scope and Application

This policy has been developed in the context of, and is designed to complement the CWHC Privacy Policy, the CWHC IT and Data Use Agreement, the CWHC Privacy Policy and Data Use Agreement Guidelines, and the CWHC 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 CWHC 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).

## Definitions

**Intellectual Property** –There are no “intellectual property” rights that reside in CWHC 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 CWHC data in normal circumstances, these are; patents, trade- marks, industrial designs, confidential information and trade secrets, and copyright. Data ownership and publication rights, which do pertain to CWHC 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 CWHC “confidential information” can be summarized as including all personal information (see the CWHC Privacy Policy and Data Use Agreement Guidelines) as well as information of a sensitive nature, such as embargoed test results.

## Policy

Wildlife disease data is a CWHC 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 CWHC stewardship obligations, privacy legislation, or legal contracts. Further elucidation regarding the restrictions placed upon access and disclosure of personal information contained in the CWHC National Wildlife Disease Database can be found in the CWHC Privacy Policy and Data Use Agreement Guidelines. A multitude of considerations arise once the decision to share CWHC data is made, these include issues pertaining to publication rights, data ownership and privacy/confidentiality issues.

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

## 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 CWHC 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 CWHC practices and CWHC contractual agreements. For more information please review the CWHC Data Security Policy.

CWHC Regional Directors are responsible for monitoring adherence to this policy within their regions and for directing inquiries, concerns, and questions to the National Office Director.

CWHC 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 CWHC 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.



## 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 CWHC 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 CWHC National Wildlife Disease Database resides with the CWHC and the University of Saskatchewan.

Publication of research data is an unfettered right of the CWHC. 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 CWHC 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 CWHC research and/or data by non-CWHC individuals is, by default, based on access to the data itself, access is governed by the CWHC 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 CWHC as a reference. The addition of a clause on CWHC reports reiterating the need to seek permission and to cite the CWHC as a reference will further assist in greater compliance. All data sharing/confidentiality agreements involving data residing in the CWHC database should be coordinated by the Principle Investigator responsible for the research project, as well as by the CWHC National Office Director, this will ensure conformity with Federal /Provincial/ Territorial legislation, CWHC contractual agreements and applicable policy.

## 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 CWHC National Office Director. In most instances the CWHC is free to enter into confidentiality agreements pertaining to CWHC data, however, if there is monetary compensation or in some instances when the CWHC 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.

## 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

*CWHC Privacy Policy*

*CWHC Information Technology and Data Use Agreement CWHC Privacy Policy and Data Use Agreement Guidelines CWHC 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*

## Contact

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