SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN INSTITUTE OF CRIMINOLOGY

Question No. 174

Senator Ludwig asked the following question at the hearing on 14 February 2006:

Regarding the twelve proposals that the Ethics Committee reviewed in 2004-05:

a) What were the proposals and which ones were approved?

b) What proposals have been rejected by the Ethics Committee, and on what grounds were they rejected?

c) What is the criteria that the Ethics Committee use to review proposals –provide a copy of the criteria, and any guidelines that are used to implement it?

The answer to the honourable senator's question is as follows:

a) The following proposals were considered by the AIC Ethics Committee during 2004-05:

Project No.	Project Title	Action Completed	Approval status
PO88	Evaluation of the impact of face-to-face and videotaped sexual assault testimony on juries	7 February 2005	Approved
PO87	Study into Crime in Australian Fisheries – Stage Two	7 February 2005	Approved
PO86	Serious Taxation Fraud Prosecutions	7 February 2005	Approved
PO85	NSW local crime prevention evaluation	7 February 2005	Approved
PO84	Application for inclusion of a Diversion program Addendum under PO71	15 January 2005	Approved
PO83	Victim/survivor decision-making and coordinated responses to adult sexual assault	17 November 2004	Approved
PO82	Pilot study on sexual assault and related offences in the ACT: Stage 3	17 November 2004	Approved
PO81	Secondary data analysis of AFP family violence incidents database	17 November 2004	Approved
PO80	Bushfire Arson	31 August 2004	Conditional Approval
PO79	Characteristics of online child pornography offending	31 August 2004	Approved

PO78	On-line grooming: Lessons from Queensland Police cyber-sting operations	31 August 2004	Approved
PO77	Study into Crime in Australian Fisheries – Stage One	16 July 2004	Approved

b) What proposals have been rejected by the Ethics Committee, and on what grounds were they rejected?

There were no proposals rejected by the Ethics Committee.

c) What is the criteria that the Ethics Committee use to review proposals –provide a copy of the criteria, and any guidelines that are used to implement it?

The Ethics Committee follows the guidelines set by the Australian Health Ethics Committee (AHEC), a principal committee of the National Health and Medical Research Council (NHMRC). These guidelines can be found at:

National Statement on Ethical Conduct in Research Involving Humans:
http://www.nhmrc.gov.au/publications/_files/e35.pdf
Guidelines under Section 95 of the Privacy Act 1988
http://www7.health.gov.au/nhmrc/publications/synopses/e26syn.htm

Ethics Committee members are provided with the AIC Human Research Ethics Protocols (Attachment E).

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AUSTRALIAN INSTITUTE OF CRIMINOLOGY

HUMAN RESEARCH ETHICS PROTOCOLS

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Introduction

The Australian Institute of Criminology has a Human Research Ethics Committee (HREC). It has responsibility, on behalf of the Institute, to consider projects that involve humans as subjects or research in order to assess whether those projects satisfy generally accepted ethical standards and codes in terms of safeguards for the well-being of the subjects of the research. The ethical standards and codes used by the HREC in its assessments are:

The National Health and Medical Research Council (NHMRC) (1999) *National Statement on Ethical Conduct in Research Involving Humans* (http://www.health.gov.au/nhmrc/publications/synopses/e35syn.htm).

The purpose of this document is to provide some background and protocols for AIC staff unfamiliar with ethical standards and requirements by the AIC's HREC. It is not however a substitute for the NHMRC statement: all research staff should be familiar with this document.

The HREC is composed in accordance with NHMRC guidelines on institutional ethics committees. Membership therefore includes:

- a chairperson
- two lay person not associated with the institution
- at least one member with knowledge/experience with criminological research
- at least one member with knowledge/experience in professional care, counselling or treatment of people
- a minister of religion or performs a similar role
- a lawyer

HREC should endeavour to reach decisions by general agreement but this need not involve unanimity (NHMRC, 1999:17).

HREC may establish procedures for expedited review of research involving minimal risks to participants (NHMRC, 1999: 19).

HREC must nominate a person to whom complaints from research participants, researchers, or other interested persons may be made in the first instance. This person or the HREC shall attempt to resolve these complaints. Where the matter cannot be resolved the HREC must refer the matter to the Director of the AIC to resolve such complaints (see NHMRC, 1999:17)

'It is the responsibility of each institution and organisation to develop criteria to classify which of its activities are reviewable by its HREC and which are not' (NHMRC, 1999:8)

Who Should Submit an Application?

All researchers should submit applications where their study or research involves contact with humans or use of confidential information. If you are unsure as to whether an application should be submitted, check with your immediate supervisor. All researchers should be familiar with the NHMRC National Statement which is available on the intranet site at: http://home/howWeDoIt/committees/ethics/

If the research project is being conducted at an Institution which has its own "Properly Constituted Ethics Committee", it may not be necessary to submit a separate formal application to the AIC's HREC, although all such projects should be notified to the Chair of the HREC.

There are four classes of research conducted in the AIC:

R (At Risk): Physical, psychological, social, or legal risk to subjects above the everyday norm (e.g. interviews with minors or prisoners)

MR (Minimal Risk): Research involving a slight risk to subjects but which is non-invasive (e.g. interviews with normal subjects on topics not usually regarded as sensitive or controversial)

P (Procedural): Non-invasive research on normal subjects who are not identified in any way (e.g. observational research or use of official records or publicly available data which do not identify subjects).

Pilot (Pilot studies): Feasibility studies to determine the efficacy of a particular research/monitoring program.

The AIC routinely undertakes pilot or feasibility studies to determine the viability and efficacy of establishing a major research program or the establishment of an on-going monitoring program. These projects have not routinely been seen by the HREC. Under new guidelines they will be formally endorsed by the Director of the AIC and sent to the chair of the HREC for noting.

Projects classified as "Procedural", which seek to undertake secondary analysis of de-identified data need only to be sent to the HREC chair who can give approval out-of-session. Such proposals are not required to be circulated to other committee members.

More complicated applications in respect of projects classified as being "At Risk" or "Minimal Risk" will be examined by HREC and may require modification or correction by applicants. Where appropriate, there proposals are to be considered in-session by HREC members.

Projects requiring an extension of ethics clearance need only to be sent to the HREC chair who can give out-of-session approval without circulating to other members of the committee.

Procedures for submission and processing of applications

(a) Application Form

The form is available on the intranet site at: http://home/howWeDoIt/committees/ethics/Application_form.doc

Handwritten applications will not be accepted.

(b) Completion and Signing the Form

Investigators should sign the form. All applications require the signature of the Director of Research or delegate.

(c) Submission to the HREC

Applications should then be submitted to the administrative officer tasked with managing the HREC committee.

Applications which the HREC consider to be "procedural" (secondary analysis of de-identified data) and those requiring an extension of ethics clearance are approved out of session by the chair of the committee and research can begin immediately upon notification of approval. Note this approval must be documented either in typed letter or in an email from the chair.

All communications with the HREC should be conducted through the designated administrative officer tasked with servicing the committee.

(d) Notification of Approval

If the project is approved the principle investigator will be notified by email to this affect with the assigned register number and the period for which the project is approved.

(e) Annual Renewal of Projects

It is a requirement of the NHMRC guidelines that annual reports be submitted to the HREC each year. Requests for annual reports will be sent out in May each year by the administrative officer servicing the committee. The reports will be for the previous financial year and a template is provided on the intranet site at : http://home/howWeDoIt/committees/ethics/.

If the project is to continue beyond three years, a new application will need to be submitted for consideration. The exception to this is where the project is an on-going monitoring program that has not resulted in any changes to the procedures.

(f) The Register of Applications

Note that approved applications are held in a formal register of projects that may be accessed by others. Where there is confidential information this needs to be clearly

identified. The register of applications can be found at: http://aicdme1/Documents/AIC-2022

(g) Project completion

On completion of the project the HREC requires the principle investigator of each project to give a verbal presentation to the committee. Where the project is an on-going monitoring system the principle investigator should provide the HREC with copies of publications (where they are public documents) in their annual report.

Methodological considerations

Particular care should be taken in describing the aims and significance of the project and in ensuring that an appropriate methodology has been devised.

Obtaining consent from subjects

The primary requirement for ethical research involving human subjects is that subjects must be fully informed of the nature of the research project and provide informed and voluntary consent prior to research being undertaken. The exception to this is epidemiological research which is discussed below.

Before research is undertaken the free consent of the subjects should be obtained. To this end the investigator is responsible for providing the subject at his or her level of comprehension with sufficient information about the purpose, methods, demands, risks, inconveniences and discomforts of the study. The HREC has determined that due to the sensitive nature of the AIC's work and its client group signed consent forms are not required.

Where juveniles are being interviewed the researcher must ensure:

a) The child or young person makes this decision where they have sufficient competence; and either

b) Parents/guardian consent except in exceptional circumstances; or

c) Any organisation or person required by law (NHMRC, 1999, 25).

a) Consent forms and Confidentiality

Consent forms should not mislead subjects as to the security of data. Consent forms should state that data will be held securely and confidentially "within the existing constraints of the law".

Participants must be free to withdraw consent at any stage of the research project and they should be told this prior to the research beginning.

b) Consenting to Pencil and Paper Self-Administered Questionnaires

The mere act of agreeing voluntarily to complete a written questionnaire is sufficient consent as long as subjects have been given information explaining in full the nature of the survey.

c) Epidemiological research or secondary analysis

The NHMRC statement states that 'It is ethically acceptable to conduct certain types of research without obtaining consent from participants in some circumstances, for example, the use of de-identified data in epidemiological research, observational research in public places or the use of anonymous surveys' (NHMRC, 1999, 13).

The AIC conducts a considerable about of 'secondary' analysis that involves accessing data collected by criminal justice or health agencies and anonymous surveys from the Social Science Data Archives; this is the equivalent of epidemiological research in the medical field. Sometimes this research/monitoring is 'tasked' to the AIC by the Australian Police Ministers Council or similar bodies and is equivalent to public health

surveillance. Epidemiological research is where the same information is investigated for research purposes although the original information was not obtained for such purposes. There is a thin line between these two activities.

NHMRC requires that all epidemiological research, but not public health surveillance be approved by HREC. There are three categories of epidemiological research or secondary analysis:

Identified

Potentially identified

De-identified

The AIC has traditionally obtained HREC clearance on its monitoring programs as they are used for both surveillance and research purposes. This will continue. However it is not possible in most AIC research to obtain the consent of participants. The NHMRC statement acknowledges these difficulties and indicates that HREC can approve access to identified or potentially identifiable data without consent where HREC is satisfied that:

a) either

the procedures required to obtain consent are likely either to cause unnecessary anxiety for those whose consent would sought or to prejudice the scientific value of the research and there will be no disadvantage to the participants or their relatives or to any collectivity involved

or

it is impossible in practice, due to the quantity, age or accessibility of the records to be studies, to obtain consent; AND

b) the public interest in the research outweighs to a substantial degree the public interest in privacy. (for further details see NHMRC, 1999, 40-42).

Privacy legislation

The NHMRC statement requires that the HREC 'must be satisfied that the research complies with any relevant Commonwealth and State/Territory legislation or policies dealing with the privacy and confidentiality of data held by Government authorities' (pg 41).

Where identified or potentially identified data are collected it much be stored in accordance with the Information Privacy Principles of the *Privacy Act*, 1988 (Cth) (http://scaleplus.law.gov.au/html/comact/6/3324/top.htm) and the Standards Australia *Personal Privacy Protection in Health Care Information Systems* (AS4400-1995). A copy or link to both pieces of work is provided on the AIC's intranet site from: http://home/committees/ethics/.

Where data requires linkage for long-term epidemiological research the 'identifiers' must be securely stored.

Criminal liability of researchers and involvement with the police

Where research projects involve the collection of information from subjects about self-reported criminal activity which may incriminate them or third parties and about which the police have no knowledge, researchers should be aware of the following.

(a) Criminal Liability

Researchers who gather data in a bona fide manner and who do not instigate or encourage criminal activity, and who do not receive any tangible benefit for concealing criminal activity, and who comply with any lawful request for the inspection of data, will not face criminal liability.

(b) Cooperation with the Police

In the unlikely event that researchers are confronted by the police or presented with a subpoena for tapes, notes, or data, they should cooperate with the police and obey any properly executed subpoena or warrant. Researchers are not exempt in any way from compliance with the law.

(c) Commission of Criminal Acts

If, during the course of data collection, researchers believe that subjects are about to engage in criminal activity, the researcher should detach himself or herself from the scene and report the matter to the principal researcher of the project. Researchers should not be present during the commission of any criminal acts.