



## HiREB Guidelines on Secondary Use of Information and/or Samples for Research Purposes

### What is “Secondary Use”?

Some research projects propose to re-use human information or samples that were originally collected for one purpose (e.g., medical care, for another research project) for a new research project. This is secondary use – previously collected information or samples are being used for a new research purpose.

Reusing information or samples can be beneficial in research. This can avoid duplication in primary collection and thus reduction in participant burden, provide corroboration or criticism of the original conclusions, allow for comparison of change in a research sample over time, support application of new tests of hypotheses that were not available at the time of original data collection, and/or confirm that the data are authentic<sup>1</sup>.

### What is a “Chart Review”?

A chart review is a specific type of secondary use study where a researcher proposes to use information that was originally collected for medical care and is contained in medical records (‘charts’) for a research purpose. The ethical considerations for a chart review are the same as for any other research study that involves the secondary use of information and/or samples.

Researchers need to carefully consider the range of data they need to access to achieve their study objectives (e.g., the date range of the records they need to look at) when developing their chart review studies. Tools like Slicer Dicer in Epic may be able to assist with this, where permitted by the institution(s). This range must be identified in the initial REB application, and justification should be included in the protocol.

It is not appropriate for researchers to repeatedly request to extend the date range to avoid consenting participants. However, HiREB recognizes that an **unexpected** situation could arise where researchers need to extend the date range after the initial REB approval. For example, if the study team needs to access additional information to attain the necessary sample size, as the original range contained fewer records than expected. If a waiver of consent is requested, the researchers must explain why the waiver for the extended date range is justified. Additional extension requests may require the submission of a new study to reflect that the study requires prospective data collection to meet its objectives, or justification as to why the need to further extend the date range could not have been reasonably foreseen.

### What is a “Case Report”? A “Case Series”?

A Case Report is a description of some or all of the symptoms, signs, diagnosis, treatment, and follow-up of an individual patient. Case reports are typically conducted via the review and secondary use of information in the patient’s medical record, but may also contain a literature review of other reported cases. A case report does not involve a research question or investigation, but is the presentation of existing information about a specific situation. A case report is not considered research and does not require REB review. Informed consent may still be required – please contact your institution for additional information.

A Case Series includes a description of the characteristics and outcomes among a group of individuals over a period of time and without a control group. Data are collected retrospectively or prospectively, and there is no randomization. Case series are also typically conducted via the review and secondary use of information in the patient’s medical record. When **more than three patients** are included the case series is considered to be a systematic investigation designed to contribute to generalizable knowledge and is thus considered research requiring REB review. For multi-site Case Series, the inclusion of a single case from a HiREB institution would require HiREB ethical approval<sup>2</sup>.

<sup>1</sup> TCPS 2 (2022) Chapter 5, Section D (“Consent and Secondary Use of Identifiable Information for Research Purposes”)

<sup>2</sup> Alternately, multi-centre health projects involving two or more [participating sites](#) can be submitted for streamlined ethics review via [CTO’s Stream](#). While ethics approval would still be required for the HiREB site, another REB may act as the REB of Record.

# HiREB Guidelines on Secondary Use of Information and/or Samples for Research Purposes

## When is HiREB approval required for secondary use research?

Researchers are typically required to obtain REB approval for any secondary use research that involves human participants or samples, with limited exceptions.

REB review is **not required** for:

- The secondary use of information that is publicly available through a mechanism set out by legislation or regulation and that is protected by law; or in the public domain and the individuals to whom the information refers have no reasonable expectation of privacy, if the conditions outlined in TCPS 2 (2022) Article 2.2 are met<sup>3</sup>.
- The research relies exclusively on secondary use of anonymous information, or anonymous human biological materials, so long as the process of data linkage or recording or dissemination of results does not generate identifiable information<sup>4</sup>.
  - REB review **is required** for the secondary use of anonymized or coded information – this exception is specifically limited to anonymous information.
  - REB review **is required** for any secondary use of data or material identifiable as originating from an Indigenous community, Peoples or people is subject to REB review<sup>5</sup>.
  - REB review **is required** where the researcher seeks data linkage of two or more anonymous data sets or data associated with human biological materials and there is a reasonable prospect that this could generate information identifiable as originating from a specific Indigenous community or a segment of the Indigenous community at large<sup>6</sup>.
  - REB review **is required** where the researcher seeks data linkage of two or more anonymous sets of information or human biological materials, and there is a reasonable prospect that this could generate identifiable information<sup>7</sup>.

**If you think your project may not be Research, or may be Research that is exempt from REB review requirements, please email [HiREB@hhsc.ca](mailto:HiREB@hhsc.ca) for confirmation.**

## What are the risks to participants?

When reusing information and/or samples that have already been collected, the greatest risk to the participant is usually to their privacy. Researchers have an obligation to safeguard the information and to not misuse or wrongfully disclose it. This is true for all research studies, including those that are exempt from REB review.

Participant confidentiality must be maintained and the researcher must ensure appropriate measures are in place to safeguard the information and/or samples for its entire lifecycle. Researchers must take reasonable steps to ensure that the information and/or samples are protected against theft, loss and unauthorized use and disclosure.

This is especially important when the information or sample that is being reused is in an identifiable form, for example, when researchers are accessing medical records for a chart review.

<sup>3</sup> TCPS 2 (2022) Article 2.2

<sup>4</sup> TCPS 2 (2022) Article 2.4

<sup>5</sup> TCPS 2 (2022) Article 9.20

<sup>6</sup> TCPS 2 (2022) Article 9.22

<sup>7</sup> TCPS 2 (2022) Article 2.4

# HiREB Guidelines on Secondary Use of Information and/or Samples for Research Purposes

## What are the obligations of researchers?

Researchers must:

- Follow the REB-approved research plan, including any conditions imposed by the REB. The information and samples can only be used for the purposes approved within the plan;
- Only access information and/or samples from the period and source approved by HiREB;
- Implement the safeguards for protecting information and/or samples that are outlined in the plan. Typically at a minimum this means:
  - Ensuring that any information and/or samples are coded or anonymized, and maintained securely for the lifecycle of the study;
  - Not publishing or sharing information in a way that could reasonably allow others to identify the individuals whose information was used in the research;
  - Only disclosing information if required by law;
  - For studies with a waiver of consent: not contacting individuals whose information is used in the research unless they have obtained approval to do so from the Health Information Custodian (HIC), the REB (for research contact), and specific requirements are met;
  - If information is being shared/saved/stored outside the institution where it was first collected (e.g., patient information collected at a hospital and study key & data is stored at a University), ensuring that applicable agreements (e.g., Data Sharing Agreement) are in place.
- Be familiar with the applicable regulations and guidelines and ensure that they have completed any training required by the institution(s)/health information custodian(s)(HIC) holding the information/samples;
- Comply with any additional requirements outlined in the applicable regulations/guidelines or required by the institution(s)/health information custodian(s)(HIC) (including obtaining any other necessary permission for the secondary use for research purposes, if applicable);
- Collect only the information and/or samples necessary to achieve the study objectives, and for which approval has been obtained from HiREB;
- Comply with any known preferences previously expressed by individuals about any use of their information and/or sample(s);
- Notify HiREB and the applicable Privacy Office if a privacy breach occurs.

**It is the Local Principal Investigator's responsibility to ensure all obligations are met, even if specific research activities are conducted by other members of the research team.**

## Approved Data Collection Period

The HiREB 'Retrospective' application<sup>8</sup> requires researchers to specify the time period from which data will be extracted. This is currently question 6.9, "What is the time period (i.e. the chart dates) that you will be extracting data from (from when to when)". This captures the date range for the records/information that may be accessed for the study.

**Researchers are not permitted to access data outside of the approved period without prior HiREB approval.** This approved period forms the limits of approved access, even if it is not stated in the protocol. **Any changes to this period must be submitted to the REB for approval via an amendment and approved by the REB prior to accessing the data. Renewal/Continuing Review approval DOES NOT extend the data collection period - these dates cannot be changed via renewal.** Please see additional information in the "What is a Chart Review?" section above regarding changes to the date range.

<sup>8</sup> This application is not limited to 'retrospective' data collection, it is used for all kinds of research exclusively involving the secondary use of information

# HiREB Guidelines on Secondary Use of Information and/or Samples for Research Purposes

## When is Informed Consent Required?

The default position is to obtain informed consent from research participants, to preserve their autonomy and respect their rights. **Secondary use studies are not inherently exempt from the requirement to obtain informed consent for research purposes.**

In order to waive the requirement to obtain informed consent for the secondary use of identifiable information (which includes chart reviews), the researcher must provide justification to HiREB that all of the following conditions have been met:

- That the identifiable information and/or sample is essential to the research [TCPS 2 (2022) Article 5.5A and 12.3A]/That the objectives of the research cannot be accomplished without using the personal health information [PHIPA (2004) 44(3)]
- The researchers will take appropriate measures to protect the privacy of individuals and to safeguard the identifiable information and/or sample [TCPS 2 (2022) Article 5.5A and 12.3A]/That, at the time the research is conducted, adequate safeguards will be in place to protect the privacy of the individuals whose personal health information is being disclosed and to preserve the confidentiality of the information [PHIPA (2004) 44(3)]
- The use of identifiable information and/or sample without the participants' consent is unlikely to adversely affect the welfare of individuals to whom the information relates [TCPS 2 (2022) Article 5.5A and 12.3A]
- The public interest in conducting the research and the public interest in protecting the privacy of the individuals whose personal health information is being disclosed [PHIPA (2004) 44(3)]
- It is impossible or impracticable to seek consent from individuals to whom the information and or sample relates [TCPS 2 (2022) Article 5.5A and 12.3A]/That obtaining the consent of the individuals whose personal health information is being disclosed would be impractical [PHIPA (2004) 44(3)]
- The researchers will comply with any known preferences previously expressed by individuals about any use of their information and/or sample [TCPS 2 (2022) Article 5.5A and 12.3A]
- The researchers have obtained any other necessary permission for secondary use of information and/or sample for research purposes. [TCPS 2 (2022) Article 5.5A and 12.3A]

Researchers are required to seek REB review, but are not required to seek participant consent, for research that relies exclusively on the secondary use of non-identifiable information<sup>9</sup>.

- “Relies exclusively” refers to all stages of the data collection process. For example, if data is coming from a medical record or another source that contains identifiers, then the study **does not** exclusively rely on non-identifiable data. For the purposes of this discussion, it does not matter if the data that is recorded for the research project is non-identifiable.

Anonymized and anonymous information and samples are generally considered non-identifiable. Coded information would only be considered non-identifiable if the researchers do not have access to the study key. The onus is on the researcher to establish to the satisfaction of the REB that, in the context of the proposed research, the information to be used can be considered non-identifiable for all practical purposes.

<sup>9</sup> TCPS 2 (2022) Article 5.5B

# HiREB Guidelines on Secondary Use of Information and/or Samples for Research Purposes

## When is Informed Consent Required? (continued)

If seeking a waiver, researchers should consider the following in providing their rationale:

- **Population and sample size.** Consent may not be possible or practical if the group is very large<sup>10</sup>, or if members of the group are likely to be deceased, geographically dispersed, difficult to track<sup>11</sup>.
- **When the individual was last in contact.** Consent may not be possible or practical if many members of the group are lost to follow up from older medical files or research studies. If there is a lack of an existing or continuing relationship between prospective participants and the data holder who would need to contact them, consent may be impracticable<sup>12</sup>.
- **Previous consent.** When re-using research data, researchers must consider the content of the initial study's consent form. For example, whether the participant was asked at the time of initial consent whether they wish to be contacted for future research studies, and/or whether the consent promised that information/samples wouldn't be shared or allowed the re-use of information/samples. Similarly, some data sets may not permit contact with individuals under data-sharing agreement, law or policy<sup>13</sup>.
- **The impact of contact for consent.** Depending on the nature of the medical condition under study, will contact from the research team cause undue stress to the individual? Researchers must consider the risk of inflicting psychological, social or other harm by contacting individuals or families with particular conditions (e.g. where making contact might reveal an individual's condition to others, against the individual's wishes; or research with street youth who have left home to escape abuse) or in certain circumstances (e.g. during a hospital emergency room visit)<sup>14</sup>. Will requiring consent put participant privacy at greater risk? Attempting to track and contact members of the group may raise additional privacy concerns<sup>15</sup>. Is there a risk of creating additional threats to privacy by having to link otherwise usable coded data with identifiers in order to contact individuals to seek their consent<sup>16</sup>?
- **Bias.** Is there a risk of introducing bias if consent is required? Will loss of data from segments of the population that cannot be contacted to seek their consent affect the validity of the results and/or defeat the purpose of the study<sup>17</sup>? An example would be studies where there is a need to assess local prevalence or incident rates, where it is essential to include all patients meeting the eligibility/inclusion criteria instead of only those who can be reached and provide consent.
- **Burden or hardship.** Are there difficulties in contacting or notifying individuals because the additional financial, material, human, organizational and other resources needed to obtain consent could impose a hardship or burden on the researchers or organization so burdensome that the research could not be done<sup>18</sup>? Note that this does not mean mere inconvenience.

## Secondary Use of Information or Human Biological Materials Identifiable as Originating from First Nations, Inuit and/or Métis Communities or Indigenous Community or Peoples

Any secondary use of data or material identifiable as originating from an Indigenous community, Peoples or people is subject to REB review<sup>19</sup>.

When seeking to undertake research involving secondary use of data identifiable as originating from a specific First Nations, Inuit and/or Métis community or segment of the Indigenous community at large, researchers shall, through community engagement as appropriate, address any potential inadvertent identification of communities, or misuse of traditional knowledge<sup>20</sup>.

<sup>10</sup> TCPS 2 (2022) Article 5.5A, CIHR 3.3.3 (2)

<sup>11</sup> TCPS 2 (2022) Article 5.5A, CIHR 3.3.3 (2)

<sup>12</sup> CIHR 3.3.3 (2)

<sup>13</sup> CIHR 3.3.3 (1)(b)

<sup>14</sup> CIHR 3.3.3 (1)(a)(i)

<sup>15</sup> CIHR 3.3.3(1)(a)(ii)

<sup>16</sup> CIHR 3.3.3(1)(a)(ii)

<sup>17</sup> CIHR 3.3.3(2)(a)

<sup>18</sup> CIHR 3.3.3(2)(b) and TCPS 2 (2018) Article 5.5A

<sup>19</sup> TCPS 2 (2022) Article 9.20

<sup>20</sup> TCPS 2 (2022); Secondary Use of Information or Human Biological Materials Identifiable as Originating from First Nations, Inuit and/or Métis Communities or Peoples

# HiREB Guidelines on Secondary Use of Information and/or Samples for Research Purposes

## Researchers reusing information or samples in their possession for a secondary purpose

The conditions described above for secondary use apply even when the information and/or samples are already in the researcher's possession.

Researchers who wish to re-use the information or samples in their possession for a new purpose must obtain REB approval before they begin the new study. Similarly, informed consent is generally required for the secondary use, unless the conditions have been met for a waiver of this requirement (as described above).

## Glossary

**Anonymous:** The information never had identifiers associated with it (e.g., anonymous surveys) and risk of identification of individuals is low or very low. [TCPS 2 (2022)]

**Anonymized:** The information is irrevocably stripped of direct identifiers, a code is not kept to allow future re-linkage, and risk of re-identification of individuals from remaining indirect identifiers is low or very low. [TCPS 2 (2022)]

**Coded:** Direct identifiers are removed from the information and replaced with a code. Depending on access to the code, it may be possible to re-identify specific participants (e.g., the principal investigator retains a list that links the participants' code names with their actual names so data can be re-linked if necessary). [TCPS 2 (2022)] This is sometimes called "de-identified", but PHIPA and TCPS use the term "de-identified" in different ways so we have used "coded" throughout this document

**Impracticable:** Incapable of being put into practice due to a degree of hardship or onerousness that jeopardizes the conduct of the research; it does not mean mere inconvenience. [TCPS 2 (2022)]

**Research:** An undertaking intended to extend knowledge through a disciplined inquiry and/or systematic investigation [TCPS 2 (2022)]

**Secondary Use:** The use in research of information originally collected for a purpose other than the current research purpose. [TCPS 2 (2022)]

## References

Canadian Institutes of Health Research, CIHR Best Practices for Protecting Privacy in Health Research, September 2005.

Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, and Social Sciences and Humanities Research Council, Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans, December 2022.

Ontario, Personal Health Information Protection Act, 2004, SO 2004, c 3, Sch A.