

# SIMON FRASER UNIVERSITY

PRESIDENT'S OFFICE



8888 UNIVERSITY DRIVE  
BURNABY, BRITISH COLUMBIA  
CANADA V5A 1S6  
Telephone: (604) 291-4641  
Fax: (604) 291-4860

November 27, 2000

Dr. John Lowman  
Dr. Ted Palys  
School of Criminology  
Simon Fraser University  
Burnaby, BC V5A 1S6

Dear Professors Lowman and Palys,

I am writing in reply to your correspondence of October 31, 2000, and the request it contains for my ruling on eight issues regarding the University *Research Ethics Policy* (R20.01). I do so under the Policy's authority which states: "Questions of interpretation or application of this policy or its procedures shall be referred to the President, whose decision shall be final."

I carefully considered the materials you provided and sought independent advice before reaching my own judgment. My rulings are set out below and proceed point-to-point in the order your issues were presented.

- 1. The VP-Research and the URERC created a separate ethics approval process for the Faculty of Business Administration thereby breaching its duty of fairness in the application of R20.01 to the rest of the University.***

It is my ruling that the University Research Ethics Review Committee (URERC) cannot delegate its decision-making authority to the Faculty of Business Administration or to any other unit or individual within the University. This ruling excludes the specific powers of delegation and exception provided by Policy sections 6(c) and 6(d).

The Committee has authority under section 6(f) to establish its own operating and appeal procedures but these procedures must cohere with the Policy's other requirements. It follows that procedural efficiency cannot be allowed to contravene policy intent and the Committee cannot delegate final decisions on research ethics approvals. However, efficiency is not a pejorative when conducting university affairs and the URERC has authority

to adjust its practices in such a way that advice on the ethical dimensions of research proposals can be brought forward in an efficient manner, as determined by the Committee, from the Faculty of Business Administration or from any other unit. Based on a consideration of the advice tendered, decisions can then be made by the URERC consistent with the Policy's provisions.

**2. *Extended the requirement for ethics review to secondary data sources (the VP-Research has the wrong definition of "research" posted on the URERC web page)***

It is my ruling that the definition of "research" currently posted on the URERC web page should be corrected and references to the use of secondary data should be deleted or amended. It should be noted that the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* does require ethics approval for secondary data when the possibility exists that the data can allow individuals to be identified. It is my expectation that the Policy revisions now being finalized will address this issue.

**3. *The URERC still uses the "limited confidentiality consent statement" in its application forms without explaining to applicants that they do not have to use it. This consent statement can be used to prevent some researchers from following their disciplinary ethics code, could be interpreted as waiver of privilege, and does not provide the information necessary for informed consent.***

In my judgment, the "limited confidentiality consent statement" does not over-ride the responsibility of researchers to treat their subjects ethically and should therefore be consistent with the "professional responsibility of researchers to adhere to the ethical norms and codes of conduct of their respective disciplines" as set out in Policy R20.01. Moreover, it is the ethical responsibility of all researchers to make their subjects aware of the potential risks and benefits of the proposed research prior to securing their participation. It follows that I can find no fault in the URERC providing a "template" that addresses the issue of potential risk or in adjudicating whether or not research subjects will be adequately informed.

My ruling on this issue is two-fold. First, the URERC "limited confidentiality consent statement" should be introduced to prospective researchers as an illustrative guide containing language acceptable to the URERC. It should be understood that refinements to the language are possible, as evidenced in your own case pursuant to the grievance you

brought forward, but final approval for any textual amendment rests with the Committee. Second, the URERC should introduce the "limited confidentiality consent statement" to prospective researchers with an assurance that it is not intended to prevent adherence to their respective disciplinary ethics codes so long as those codes do not fall short of the ethical safeguards required by the University.

**4. *The URERC Chair's June 14th 2000 memo indicates that all graduate student research with human subjects must be submitted for ethics review. However, R20.01 says that departments and faculties are responsible for reviewing research done as part of course requirements.***

I concur with your interpretation of the requirements set out in Policy R20.01 as they apply to graduate student research. Section 6(d) is specific in this matter. The URERC will be asked to post a memorandum on the URERC web site referencing section 6 and identifying the circumstances under which graduate student research is or is not subject to URERC approval.

**5. *The creation of the "Research Ethics Consultant" position subverts the core structure of the Research Ethics Policy. The Policy charges the URERC with the task of undertaking ethics review. It has given that job to a consultant.***

My ruling on this issue is substantially the same as in item #1 above. Policy R20.01 vests decision-making authority with the URERC and this authority cannot be delegated. Decision-making in this regard extends to the Committee's responsibility to determine whether or not ethics approval is required when such a requirement might be in doubt (cf. section 6(e)).

At the same time, the Policy expressly allows the URERC to establish its own operating procedures and both the administrative and advisory services performed by the Research Ethics Consultant are consistent with this authority. Moreover, the services provided by the Research Ethics Consultant do not foreclose opportunities for individual applicants to seek assistance from the URERC Chair when developing their proposals (cf. section 6(h)).

As a reasonable response to the workload pressures experienced by all members of the University community, the Research Ethics Consultant position was established to offer applicants an enhanced level of assistance when preparing submissions to the URERC. Based

on this assessment and with the proviso that the Research Ethics Consultant must not intrude on the decision-making responsibilities accorded the URERC, I cannot agree that the position "subverts the core structure of the Research Ethics Policy."

**6. *Revelation of Prospective Harm: The URERC's July 4th "Duty to Report" requirement is a substantive change to the Policy that infringes academic freedom.***

Without addressing the particulars of your analysis, I agree that the present wording of the duty to report requirement, as expressed in the minutes of the URERC's July 4th meeting, creates the potential for an infringement of academic freedom. The URERC will be informed of your analysis and asked both to clarify the motion's intention and to refine its language with the express purpose of mitigating the potential for infringement. Until such time as the URERC responds to this instruction, the duty to report requirement will be in abeyance.

**7. *Contrary to R20.01, the URERC is exposing researchers and participants to risk.***

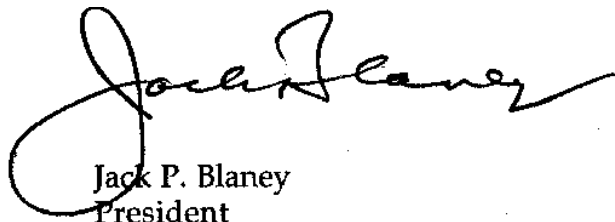
My ruling with regard to this issue parallels my response to item #6, with the addition that I agree the current wording could expose participants and researchers to risk. The URERC will be asked to take your critique into consideration when pursuing the direction I have given to revisit the motion.

**8. *The inconsistency of ethics decisions violates the URERC's duty to fairness.***

The URERC necessarily must conduct itself in keeping with Policy R20.01 and with the interpretations I have provided. However, I have no knowledge about the philosophical predisposition of individual Research Ethics Consultants or about how their predisposition might have affected individual cases. It follows that I have no way of determining whether or not "Ethics review has become a process of adjusting to the personal ethics philosophy of each new ethics consultant... ." I am therefore not in a position to rule on questions concerning the "inconsistency of ethics decisions" or the possible violation of the URERC's duty of fairness.

By copy of this correspondence to the URERC Chair and to the Vice-President, Research, I expect that such actions as may be required by my interpretations will be undertaken in a timely fashion.

Sincerely,



Jack P. Blaney  
President

JPB/gm  
cc. James Ogloff  
Bruce Clayman