



Juvenile Justice
Attorney General & Justice

**DEPARTMENT OF ATTORNEY GENERAL
AND JUSTICE**

JUVENILE JUSTICE

**POLICY AND PROCEDURES FOR APPLYING TO
CONDUCT RESEARCH**

RESEARCH AND INFORMATION UNIT

March 2011

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1. Introduction

The Department of Attorney General and Justice - Juvenile Justice (JJ) views research undertaken in its community and custodial centres as a significant contributor to the development and maintenance of evidence based interventions for young people involved in the criminal justice system.

The Agency has a responsibility to ensure that research conducted in its community and custodial centres does not infringe upon the rights or jeopardise the welfare of young people involved in the juvenile justice system or personnel employed by the Agency, and that research activity does not impede offender rehabilitation programs, or the provision of a safe and secure environment.

Accordingly, proposals to conduct research in Agency centres/offices will be assessed with the intention of ensuring:

- The rights of young people in the Agency's care and personnel employed by the Agency are protected.
- The welfare of young people in the Agency's care and personnel employed by the Agency is ensured.
- The probity of research undertaken within Agency centres/offices
- The research question is of sufficient value, purpose, or significance for the Agency to justify the expenditure of any necessary time and effort required of Agency young people and/or staff.
- The research methodology is appropriate and capable of producing valid outcomes.
- The research findings are presented fairly and accurately, and are disseminated.

It is a condition of approval that upon completion of a project, the researcher will provide the NSW of Juvenile Justice with a report of the findings of the study and grant the NSW Agency of Juvenile Justice the right to disseminate this report to personnel employed by the Agency. The researcher will also provide participating centres/offices and the participants (young people and/or personnel) with a summary of the study findings.

Interested persons should refer to Juvenile Justice website for background information regarding the services provided by the Agency and links to published information regarding the client group. The Agency's website is www.djj.nsw.gov.au. Persons interested in conducting research should contact the Agency in the first instance to speak with the Manager or Research Psychologist, Research and Information Development, whose contact details are listed below.

Manager, Research and Information Development

NSW Agency of Juvenile Justice

PO BOX K399

HAYMARKET NSW 1240

Phone: (02) 9219 9515

Fax: (02) 9219 9574

Research Psychologist, Research and Information Development

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2. Who can apply to conduct research in JJ?

Please note: "Cold" applications to conduct research; or applications that have not been discussed with the Agency prior to their submission will not be processed. The Agency does not provide approval for research that is undertaken primarily for commercial or material gain.

2.1. Research for the fulfilment of an educational qualification

Undergraduate university students and secondary school students will not be considered for approval, and are encouraged to concentrate on research using official publications/statistics. This is due to the time constraints involved in small-scale projects. Information regarding sources of published statistics and publications arising from completed research are regularly updated on the Agency's website <http://www.djj.nsw.gov.au/research.htm>.

Research for all other degree levels will be considered, including:

- Coursework masters (pass) degrees
- Bachelors (Honours) degrees, Masters (Honours) degrees
- Doctorates and PhDs.

Research should usually attempt to extend, rather than duplicate, existing knowledge. Applicants will provide evidence that they are aware of existing knowledge and research in the area, and are required to demonstrate how the proposed project will add to the store of knowledge and understanding. Where a study is designed to replicate earlier work, it is necessary to provide grounds to justify such replication.

The Agency will only grant final approval after receiving evidence of approval from a university ethics committee and any other relevant ethics committees (for example, the Aboriginal Health and Medical Research Council, government Agency ethics committees). The Agency will consider an application at the same time as a university ethics committee. However, the final approval will be withheld until written notification of university human research ethics committee approval is supplied to JJ.

It is preferable that written notification of the approval of the research project by a University Ethics Committee or equivalent is received prior to the full research application and preferably at the time of the initial submission. It is the researcher's responsibility to obtain Ethics Committee approval.

2.2. Research supported by grant applications

In general, no limits will be placed on sponsorship/grant support brought into the Agency to facilitate research, providing the project is approved and the researcher accepted as a bona fide researcher. For researchers planning to include Juvenile Justice as a data source or potential participant in any small or large grant application, consultation regarding the research will need to occur within a substantial amount of time prior to the submission of any grant application. This will ensure that the Agency is fully aware of their role and that all details of the research are agreed to prior to monies being secured.

All research will require approval from the Research Steering Committee after any securing of grants monies, as agreement by the Agency to support grant applications does not translate into blanket approval for research methodologies and sampling.

2.3. Gender and cultural sensitivity

Juvenile Justice has a responsibility to ensure that young people in its care are treated with sensitivity and with respect for their cultural, religious and other beliefs. Staff of the Agency are also entitled to the same consideration.

All researchers have a responsibility to inform themselves of cultural, religious and other differences amongst research participants, and only those studies that are sensitive to and respect these differences will be approved.

The gender of the researcher may be relevant on security grounds. Current protocols concerning Agency staff will also apply to approved researchers.

In projects involving face-to-face interviews or surveys, it is considered preferable that female researchers interview female young people and Aboriginal researchers interview Aboriginal young people/staff. Every effort should be made to achieve this and, in certain circumstances (eg questions on sexual practices, medical background), same sex interviewers must be used.

Any variation to this should be detailed in initial approaches to the Agency. If the project design does not include appropriate interviewing strategies and personnel to complete the research with the least intrusion possible, and does not consider or employ the use of culturally appropriate personnel, then the research may not be approved.

Regardless of the content area of the research, all invited applications will be asked to document in detail how the research acknowledges Aboriginal and Torres Strait Islander participants and staff, and how they have considered ethical issues specific to those communities. For research applications specifically researching the Aboriginal community, the researcher will need to approach the Aboriginal Health and Medical Research Council to assess whether they will need separate ethics approval from the organisation.

Juvenile Justice has adopted recommendations 48, 51 and 269 of the National Report of the Royal Commission into Aboriginal Deaths in Custody (see appendix one). Prospective researchers will need to demonstrate that they have met the criteria set out in those recommendations.

3. The JJ research application process

3.1. Overview

All research projects, both internal and external cannot be implemented without approval from the Chief Executive of Juvenile Justice. Inquiries about conducting research are welcomed from all interested parties who meet the eligibility criteria outlined in section two. The Agency recognises the complexities faced by research applicants, and is keen to support the approval of research without sacrificing rigour.

Applications are to be submitted for two screening phases by the Research and Information Unit. Projects that demonstrate direct, visible and practical benefit to the Agency, with minimal operational impact will then be referred to the Agency of Juvenile Justice's Research Steering Committee, by way of an invited full research application. Those applications assessed as suitable will be forwarded to the Director-General of the NSW Agency of Juvenile Justice for final approval.

Expressions of interest submitted to the Research and Information Unit should follow the *JJ Procedure for applying to conduct research* (appendix two) and consider the *JJ Conditions of approval* (appendix three). Before completing the initial proposal and/or the full application (if invited), applicants should read all criteria carefully.

3.2. Role of the Research and Information Unit

The role of the Research and Information Unit in the application process is to:

- Process research applications for final approval by the Chief Executive;
- Act as liaison between the researcher, the University or other tertiary institutions, and the relevant staff of Juvenile Justice;
- Consider any proposed changes in the methodology submitted after initial approval of the research project;
- Provide comment, evaluation and analysis of research projects as necessary;
- Review and provide comment on proposed publications arising from research projects;
- Ensure the legal rights of juveniles including maintaining anonymity of individuals and confidentiality of responses;
- Provide staff with advice on research approved by the Chief Executive of Juvenile Justice;
- Provide researchers with advice on rules and protocol to be observed whilst conducting research with juveniles under the care of the Agency of Juvenile Justice.

3.3. The initial proposal phase

The Research and Information Unit process all initial proposals submitted to the Agency. Reviewing officers will recommend that the proposal be:

- Invited for a full application to be considered by the JJ Research Steering Committee,
- Resubmitted, addressing modifications suggested by the reviewing officers
- Not invited for a full application, as the research area does not meet the research agenda and/or cannot demonstrate direct, visible and practical benefit to the Agency, with minimal operational impact

In some situations the Agency may seek more detailed undertakings from the researcher concerning methods of analysis and presentation. Such undertakings may be considered necessary to ensure that "the research methodologies are appropriate and capable of producing valid outcomes" and that "the research findings are presented fairly and accurately". Approval will be conditional on researchers agreeing to abide by such undertakings.

3.4. Submitting a full application to the Research Steering Committee

(RSC)

Researchers can only submit a full application to conduct research in JJ after an invitation to do so has been issued. The application forms will be provided to the researcher at this point.

In concise and accurate terms, the completed application form should detail the project's rationale and hypotheses; the identity, qualifications and experience of researchers/interviewers; Ethics Committee approval; methodology (including sample size); testing and/or measurement tools (eg. questionnaire, survey, interview); time frame; impact on agency resources (i.e. juveniles, staff, other non-personnel resources); proposed means of analysing and evaluating results; and intended publication and dissemination of results.

All sections of the application form must be completed. All listed investigators must sign the application form, and the confidentiality declaration at the end of the application form signed. A project time line for the project must be included, incorporating milestones and completion dates for each phase. The project time line is essential to the review of each research application for approval.

The application form must be accompanied by all relevant paperwork, as detailed below in section six. Juvenile Justice assumes that research proposals from university staff and students have been or are being assessed by the appropriate university committees as well as being submitted to the Agency. All researchers must obtain approval for the project from a NHMRC approved Human Research Ethics Committee.

3.5. Recommendation for approval by the JJ RSC

The JJ RSC will review the application, examining the proposed benefit to Juvenile Justice against the probable costs and risks of implementing the project. The RSC will also review the project time line included in the research application, to assess competing designated time periods for data collection at proposed centres/community offices, as well as the impact of maintaining larger scale research projects in the Agency.

During the review process, the RSC has the right to ask for clarification of points in the research application, or to ask for modification of research methodology, including instruments proposed for use in data collection.

Researchers are not normally required to attend the RSC meetings, however may request to do so. The application will be recommended for one of the following outcomes:

- Recommendation for full approval
- Recommendation for approval pending receipt of evidence of ethics approval(s)
- Recommendation for review following modification/review of the application
- Not recommended for approval

The Chief Executive's decision to approve or reject a research proposal is final.

The researcher will be notified of the recommendation from the RSC after the meeting or on the following working day. At this stage, the researcher will be provided with a copy of the Agency's Research Agreement, and the Prohibited Persons Employment Declaration Forms. The Employment forms and two copies of the JJ Research Agreement will need to be signed and returned to the Agency as soon as is possible to the Research and Information Unit. However, the implementation of the research project cannot begin until a formal letter of approval has been received from the Chief Executive of Juvenile Justice. This will be provided after the receipt of the signed Research Agreement, as well as one signed copy of the agreement for the researcher's records.

3.6. Implementation of the approved research project

Once the researcher has received the final approval letter from the Chief Executive, the Research and Information Unit will contact the proposed Centres/Offices via email to inform them of the approach by the approved researcher. It is at this time that the short research proposal/summary will be emailed to the managers and placed on the intranet for information.

The researcher then can contact the relevant managers and set up meeting times for discussion of the project's implementation. The Research and Information Unit will monitor the progress of the research against the project time line provided by the researcher. If there are any major deviations from the project time line, the researcher is obliged to notify the Research and Information Unit, preferably in writing (and including a new proposed time line).

If there are problems faced during the implementation of the research project, the researcher is encouraged to contact the Research and Information Unit to attempt resolution of these problems. The Chief Executive, through the JJ Research Steering Committee must approve any proposed change to the research project or research methodology before being implemented.

3.7. Reporting requirements to JJ whilst the project is being completed

Receiving approval to conduct research in JJ requires that the researcher regularly report on the progress of the research to the RSC. Researchers will be asked to provide reports on a six monthly basis, the times at which these progress reports will be required will be determined once approval for the research is granted.

Progress reports (signed by the Chief Investigator or the supervisor in the case of postgraduate research) are to be submitted to the Research and Information Unit. The Research and Information Unit should be kept informed of any serious problems or difficulties affecting the research.

3.8. Right to withdraw approval of research projects

Juvenile Justice reserves the right to withdraw approval of any research project at any stage if the research is having an adverse impact on juveniles or staff at the Centres/Community Offices or is considered to be taking up an excessive amount of the Agency's resources.

The Chief Executive may withdraw approval of any research project at any stage. The Chief Executive's decision to withdraw research is final.

Any serious breach of confidentiality (see section five) will result in the termination of the research, and the relevant bodies will be notified (i.e. the university and/or funding body). If the project is terminated, all data collected is to be immediately returned to Juvenile Justice.

3.9. Self-withdrawal from approved research

If for any reason the researcher is unable to complete their research project, the researcher is to notify the Agency in writing immediately. All data collected is to be returned to Juvenile Justice immediately.

The researcher can apply to the RSC for an extension of the research project in the case of serious personal issues, and may be granted the opportunity to re-start the research at a later date.

3.10. Publication of results from research

When the research is undertaken entirely by an external agency, the report may be published by that agency. However, the Chief Executive of Juvenile Justice requires that a disclaimer be attached to the published report indicating that the views expressed do not necessarily represent any official views of Juvenile Justice. It will be necessary, therefore, for external agencies to submit to the Agency a copy of the report prior to its publication.

If Juvenile Justice is involved in the analysis of results and/or the writing of the final report, the publication will be a joint one, with Juvenile Justice having discretion regarding the nature of the publication and the scope of its distribution.

3.11. Presentation of results at conferences, seminars or workshops

If any of the researchers intend to air the results of their research at a conference, seminar or workshop, prior approval must be obtained from the Chief Executive. As with written publications (see section 3.9 above), the Chief Executive requires that a disclaimer be included at the beginning of the presentation indicating that the views expressed do not necessarily represent any official views of Juvenile Justice. It will be necessary, therefore, for researchers to provide a text of their presentation to the Agency before committing themselves to giving a conference etc. paper.

3.12. Responsibilities of the researcher

It is the researcher's responsibility to:

- Inform Juvenile Justice of accurate information regarding their proposed research methodology
- Adhere to the proposed research project time line
- Collect all data required for the research project, excepting approved data extractions
- Report any difficulties to the Agency to facilitate resolution
- Obtain each subject's informed consent to participate in the research project;
- Clearly explain to participants the nature and purpose of the project; the value of the project; the methodology; the confidentiality aspect; and the juvenile's right to withdraw at any time without fear of consequences
- Ensure that the requirement for informed consent has been met
- Provide debriefing after an interview session.
- Liaise with Centre/Community Managers regarding the implementation of the project

An important proviso for juveniles in custody is that there should be minimal disruption to their normal daily activities. The Centre Manager will be asked to ensure that this requirement has been met.

The same conditions outlined in relation to juveniles apply equally to staff, especially with regard to their voluntary consent. An additional condition is that the project must not adversely affect the work requirements and efficiency of staff or interrupt their daily routines. The Centre/Community Manager will be asked to confirm that these requirements have been met.

4. FACTORS TO CONSIDER WHEN PLANNING RESEARCH IN JJ

4.1. Project aims and methodology

The research project must be of practical value for Juvenile Justice and should be within the scope of the Agency's corporate objectives. As a general rule, research proposals that promise practical benefits for the Agency will be favoured. If a choice has to be made between two different projects investigating similar concepts but with similar practical value, priority will be given to the one that makes fewest demands on agency resources.

Priority will be given to research addressing Juvenile Justice corporate priorities. The research project should lead to either a publication in a professional journal, a conference paper, and/or an official tertiary qualification.

The Agency has a responsibility to ensure that research methodologies are appropriate and capable of adding to, or enhancing the current evidence base supporting intervention for offending behaviours in young people. The researcher has a responsibility to articulate and provide justification for the methodology, and to outline strategies employed to ensure methodological validity and reliability. The Agency reserves the right to withhold approval of studies that are considered to be methodologically inadequate.

Exploratory research without hypotheses (i.e. in which the researcher is seeking ideas rather than testing hypotheses) will not be approved. Obtrusive observation techniques that may disrupt the daily routine of juveniles in Juvenile Justice Centres will not be approved.

Realistic time limits will be placed on research projects. Researchers may need to apply for approval of extensions where necessary.

4.2. Access to Juvenile Justice facilities

Juvenile Justice has a responsibility to ensure that research programs do not impose an undue burden on the young people, juvenile justice personnel and/or other government personnel employed in custodial environments, such as Justice Health and NSW Agency of Education personnel.

The potential contribution of the research should be sufficient to justify the involvement which participants are being asked to make. The level of disruption considered acceptable will be dependent on the potential value of the research. Research that imposes unacceptable levels of disruption to the Juvenile Justice Centre or Community Office will not be approved.

Further, access to Juvenile Justice Centres/Community Offices will depend on security considerations. Prior to the research being undertaken, Centre/Community Managers must be consulted and their approval obtained.

Researchers should note that, even if the Research Steering Committee has approved a proposal, Centre/Community Managers have the right to temporarily deny access to their centre/office if they consider that research will cause an undue disruption to daily operations or in the unusual case where situational factors may place researchers at risk.

Juvenile Justice encourages research in order to contribute to the evidence base for appropriate interventions with young people under its supervision. However, it is important that no serious disruption to the normal routine of juveniles or staff should occur. A system of continuous feedback from centre and community staff will be instituted to ensure disruption caused by research is kept under control. The Research Steering Committee must ratify any proposed changes in the research design or methodology after approval to conduct research has been given.

4.3. Access to personnel from other organisations working in JJ facilities

Juvenile Justice works in collaboration with several government and non-government organisations to provide high quality services to young people under its supervision.

The NSW Agency of Education has a school on-site at all eight juvenile justice centres. NSW Justice Health provides medical/health services for young people in custody. Any research approval granted by Juvenile Justice **does not** allow access to:

- Information held by other agencies/departments working in juvenile justice facilities
- Personnel employed by other agencies for the purpose of participation in research
- Programs/educational curriculum utilised by other agencies/departments for the purposes of research and/or evaluation
- Young people participating in programs run by other agencies/departments for the purposes of research and/or evaluation within those programs.

In summary, approval granted by the JJ Research Steering Committee provides access only to programs delivered by Juvenile Justice to young people supervised by the Agency. For researchers interested in researching specific educational and/or health questions within the Agency, approval will need to also be secured from the respective agencies/departments. The Research and Information Unit will canvass this with prospective researchers at the initial proposal phase, and again at the invited application phase. Please note that researchers that require multi-agency approval will not be able to implement research until Juvenile Justice receives written notification of all approvals.

4.4. Use of Agency data

Part 6 of the Crimes Act 1900 (NSW) protects access to the Agency's Client Information Management System (CIMS), making it unlawful to obtain access to computer data without authority or lawful excuse. Therefore, all researchers wishing to access data from information systems will need approval to do so.

4.4.1. Access to data from the Client Information Management System (CIMS)

The Client Information Management System (CIMS) is a system supporting daily operational business in JJ. Access to data maintained on the CIMS will be conditional upon the extent of information requested, the need to use such data, and the difficulty in extracting the required information. Requests for information by researchers will take a low priority for the Agency; researchers are advised to submit applications for CIMS data to support their data collection early to avoid delays to their own timetable. In any case, data supplied from the CIMS will be stripped of all variables identifying individuals.

Researchers will need to consult Juvenile Justice in relation to the meaning of field variables, data values and their reliability.

4.4.2. Linking of information to external sources

Young people and Agency personnel have the right to determine whether information that can be linked to them personally is made available for research purposes to other parties. Written consent must be obtained from the young person; where the intention to obtain such information has been indicated clearly and unambiguously on consent forms.

Such information should not be sought from Centre/Community Office Managers under any circumstances. Researchers should note that Centre/Community Office Managers or other Agency personnel are not authorised to release individual data regarding offence histories, or any other information held about the individual in official files/documents for research purposes.

Permission to access aggregated data should be directed to the Chief Executive of Juvenile Justice. In the exceptional case that access to individual data has been granted, the request

should also be sent to the Chief Executive. For these approved research projects based on data extractions only, the provision of data will also be contingent on not being linked to other databases, except if permission is granted by the Chief Executive.

4.5. Use of data recording formats such as audio/videotape or photographs

No audio taping, videotaping or photographing of either research participants or juvenile justice sites is permitted. You may seek special approval from the Chief Executive to access these modes of data collection if it is considered critical to the research, however approval will only be granted in exceptional circumstances. If the Chief Executive grants approval, additional specific consent will need to be obtained prior to the research occurring from both the participant and the guardian, and the research will be strictly monitored to ensure compliance with privacy and confidentiality legislation (see section five).

If applying for special consideration to use audiotapes, videotapes or photography, procedures for storing, accessing and disposing of these data formats will need to be outlined. Such information should be retained for only as long as is necessary for the purpose for which it was collected; should be stored securely and protected by taking reasonable precautions against unauthorised access, use, modification or disclosure, and against all other misuse. As a minimum requirement, reasonable precautions are storage in a locked filing cabinet in a locked room, or for digital based formats, stored on a stand alone computer, or stored on a networked computer not on a shared drive, and in both instances, password protected. If approved to use these data formats in your research, they will need to be disposed of securely, which will be completed by forwarding the data formats to Juvenile Justice for secure disposal.

4.6. Data management and security

At the completion of the approved research project, data may not be reused for any purpose without prior approval from the Chief Executive. Before approval for research is given, it is essential that researchers are able to demonstrate proper procedures are in place for the secure storage of data.

Data must be stored securely, whether collected and stored in paper form, or stored electronically. Data that is stored electronically **must not** be stored on a shared drive. It should be stored as a password protected file on a stand-alone computer, or on a personal drive. If it is stored on removable hardware, it should be password protected and stored in a locked filing cabinet in a locked office.

All researchers are required to adhere to NHMRC guidelines on the storage and destruction of research data. In normal circumstances, data should be kept for five years from the date of completion of the research after which time they should be destroyed, unless the Chief Executive's approval is given.

5. Confidentiality requirements and the issue of consent

5.1. Identification of Individual Offenders

A condition of all approved research is that it is the researcher's responsibility to maintain confidentiality in accordance with section 37D of the *Children (Detention Centres) Act 1987*. It is an offence to disclose information obtained in the administration or execution of the *Children (Detention Centres) Act 1987*, unless it is with consent of the person from whom the information was obtained, in connection with administration of the *Children (Detention Centres) Act 1987*, for purposes of legal proceedings, if required by the Ombudsman, or with other lawful excuse. Section 28A of the *Children (Community Service Orders) Act 1987* has the same conditions.

Section 11 of the *Children (Criminal Proceedings) Act 1987* designates that the name of persons must not be published or broadcast in a way that connects the person with the criminal proceedings concerned, unless related to a traffic offence, heard before a court other than the Children's Court. Section 14 of the *Children (Criminal Proceedings) Act 1987* describes where a child has pleaded guilty to or been found guilty of any offence, a court shall not proceed to, or record a finding as, a conviction if the child is under 16 years. The court may refuse to record a conviction if the child is over 16 years and the offence is disposed of summarily.

5.1.1. Excerpt from the Children (Detention Centres) Act 1987 No 57

37D Disclosure of information obtained in administration or execution of Act

A person who discloses any information obtained in connection with the administration or execution of this Act is guilty of an offence and liable to a penalty not exceeding 10 penalty units or imprisonment for a period not exceeding 12 months, or both, unless the disclosure is made:

- (a) With the consent of the person from whom the information was obtained, or
- (b) In connection with the administration or execution of this Act, or
- (c) For the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or
- (d) In accordance with a requirement imposed under the *Ombudsman Act 1974* or with any request made by the Ombudsman, or
- (e) With other lawful excuse.

Disclosing information in breach of section 37D of the *Children (Detention Centres) Act 1987* is liable to a penalty not exceeding 10 penalty units or imprisonment for a period not exceeding 12 months, or both. Any breach of confidentiality will be treated very seriously.

Any proposed publication that places at risk the anonymity of juveniles who have participated in research will not be approved. In any instance, the researcher is required to forward a copy of the proposed publication to the Research and Information Unit for comment prior to general distribution or the dissemination of any of the results in a public, professional or academic forum.

5.1.2. Anonymity of research participants

The anonymity of participants must be protected at all times, unless there is a risk of immediate harm that falls under the "duty of care" requirements that the Agency follows.

Information that may identify participants cannot be stored with any data collected. In the event that a master list is required (i.e. for follow-up purposes), this will need to be detailed and approved during the application process, and stored separately to the data. All master lists will be forwarded to the Research and Information Unit upon completion of the project. Further, all participant consent forms will need to be stored separately to any paper based data

collected. See section 4.5 and 4.6 for a more detailed explanation of data storage and use requirements.

If the identity of a young person is crucial to the continuation of research, for example, participation in longitudinal research, the confidentiality of participants must be assured. In this instance, persons other than the researcher must not be able to link the information collected to individual participants. Researchers who wish to collect identifying participant information must be able to demonstrate the necessity for collecting such information and describe the procedures that will be adopted to ensure confidentiality. This will need to be highlighted in the application process and approved by the Research Steering Committee.

Names of juveniles (and other criteria that may place any individual at risk of identification) are not to be used in any research or publication.

5.2. Privacy of information considerations

Privacy and confidentiality are governed by a number of different pieces of legislation that all apply to Juvenile Justice.

The *Health Records & Information Privacy Act 2002* ("HRIPA") governs the collection, use, disclosure storage and destruction of personal health information. The HRIPA applies to the Agency. *The Privacy and Personal Information Protection Act (1998)* ensures legally enforceable privacy rights for people and governs how public sector agencies deal with personal information. This Act governs the collection, use, disclosure storage and destruction of personal information.

Appendix four lists the relevant sections of both Acts. For further information, refer to the Privacy NSW website at www.lawlink.nsw.gov.au/privacynsw . Researchers are also advised to familiarise themselves with the privacy principles contained in the *Privacy Act*.

5.3. "Duty of care" considerations and the issue of limited confidentiality

Juvenile Justice has a duty to ensure that young people in its care receive the best possible care and are protected at all times from physical, psychological and other forms of harm. Research designs should not adversely affect young peoples and other individuals' well being.

Approval to conduct research will be granted only when the RSC and the Chief Executive are satisfied that researchers who will come into contact with young people do not represent a risk to young people, are familiar with the Agency's child protection policies, and are aware of any obligations in relation to these policies.

5.3.1. Minimisation of risk or harm to participants

Where there is a possibility that young people may become distressed as a result of participating in the project, researchers will need to include strategies to ensure that adequate counselling support is available and that participants are aware of the availability of such support. This will need to be outlined when submitting the full application and approved, especially if the researcher is planning to use agency resources for counselling support/debriefing procedures.

If there are a large number of young people who become unduly distressed as a result of participating in the project, the research will be recommended for termination.

Juvenile Justice acknowledges that some necessary research around psychological well-being or questions around families and/or past experiences may be traumatic for participants, however researchers have a responsibility to ensure that distress to participants is minimised.

5.3.2. Child protection and duty of care responsibilities

The government and the community have clear expectations Juvenile Justice personnel

regarding matters of child protection. The NSW Government and the Community rightly expect that, whilst in a Juvenile Justice facility, young people children will be protected from all forms of abuse, including physical, sexual and emotional abuse. In addition, there is a legal obligation for Juvenile Justice personnel to follow the Agency's child protection policies with respect to emerging/existent issues abuse, neglect or threat of immediate harm outside of juvenile justice facilities and supervision.

Juvenile Justice is a mandatory reporter of abuse and young people at an immediate risk of harm. Therefore, all persons in paid or unpaid employment with Juvenile Justice have a legal obligation to follow the Agency's child protection policies to ensure the protection of young people under the Agency's supervision. Information will be provided to researchers regarding these procedures once approval to conduct research has been received.

The Agency expects that all persons in paid or unpaid employment will act in accordance with the principles outlined in the Agency's *Client Protection Policy* and the *NSW Interagency Guidelines for Child Protection Intervention*. A copy of the *Client Protection Policy* will be provided approved to all researchers approved to conduct research in the Agency. The 2006 *NSW Interagency Guidelines for Child Protection Intervention* are available at http://www.community.nsw.gov.au/html/comm_partners/childprotection_guidelines.htm.

Under section 248 of the *Children and Young Persons (Care and Protection) Act 1998*, employees have a duty to furnish information relating to the safety, welfare and well being of children and young persons to the Agency of Community Services. The *Privacy and Personal Information Protection Act (1998)* does not operate to prevent information exchange relating to welfare of clients or other children or young people between Juvenile Justice and Department of Family and Community Services.

All researchers are required to inform research participants prior to beginning of the data collection that whilst every guarantee is given that their identity will be protected, if they disclose details of abuse or risk of immediate harm, or intention to cause harm to another or to themselves, that the Centre or Community Manager will be notified for the purposes of informing the Community Services in the case of abuse/neglect, and for the purposes of their protection in the case of threats to self-harm or to harm another.

Some types of research have the potential to identify young people as being at risk of harm from themselves or others. If this is the case and the research design has been approved, the possibility of confidentiality undertakings being breached will need to be clearly spelt out in consent forms. Information will need to be collected in a manner that enables such young people to be identified and their names disclosed to the relevant personnel in Juvenile Justice to enable further appropriate action to be taken. The Agency acknowledges that this requirement may jeopardise confidentiality and may present methodological problems. In such situations, however, it considers its 'duty of care' obligations to be paramount.

This is an important issue to be considered by all researchers, as being approved to enter a juvenile justice office or centre requires a person to undertake the status of "mandatory reporting". This requirement can provide an ethical, or methodological problem for researchers, however it is the responsibility of the researcher to ensure that their proposed methodology incorporates procedures for mandatory reporting and duty of care.

5.3.3. Undertaking Prohibited Employment Declaration checks

Juvenile Justice has an obligation to ensure that young people in its care are protected from all forms of abuse and that all people who come into contact with them are appropriate for working with children.

The *Commission for Children and Young People Act 1998* and the *Child Protection (Prohibited*

Employment) Act 1998 established the requirement for all persons in employment (either paid or unpaid) in areas concerning children to undergo a full examination of previous employment/criminal history. The Working with Children Check is an employment screening process designed to reduce the likelihood that unsuitable people will get jobs with children. The procedures are established under Section 35(1) of the *Commission for Children and Young People Act 1998* and outline the requirements of employers in complying with the Act in relation to employment screening and the *Child Protection (Prohibited Employment) Act 1998*.

After researchers are approved to conduct research in the Juvenile Justice, they will complete the relevant paperwork (Prohibited Employment Declaration forms) that will be processed to ensure their appropriateness for working with children. These will be provided by JJ upon recommendation for approval.

If a researcher does not receive clearance from the Working with Children check, then Juvenile Justice will not allow the implementation of the research, and will terminate any approvals given to the project.

5.4. Informed consent to participate in research

The consent of young people to participate in research must be obtained prior to the research commencing. Young people must be fully informed when deciding to provide their consent to participate. As a minimum, young people will need to be informed of the following in order to make an informed decision regarding consent:

- The purpose of the research
- What tasks they will be expected to complete
- What information will be made available to them at the completion of the research
- Information relating to the procedures for storing, accessing and disposing of data
- Contact details for the researcher and their supervisor
- Contact details for the approving ethics committee for the purposes of making a complaint
- That their legal rights and privacy will be respected by the researcher
- That all participants must be volunteers
- That all participants have the right to withdraw from the project at any time
- That their decision not to participate will in no way affect the services provided by the Juvenile Justice or other service providers involved in their supervision under Juvenile Justice.
- That their decision to participate/not participate will have no impact on their court outcomes

In Juvenile Justice, young people over the age of 16 years can provide informed consent. For those under the age of 16 years, **written** and informed consent for participation must be obtained from the parent or caregiver of the young person. This age restriction will not be reduced under any circumstances. Juvenile Justice may insist on parental/caregiver consent for all young people under the age of 18 years for some specific research projects.

Where researchers intend to collect information which enables participants to be identified by the researcher, the procedures for storing, accessing and disposing of data, as outlined in Section 4.4 and 4.6, should be described in consent /information letters.

As part of the written advice giving consent, the parent/caregiver should indicate that he or she has discussed the matter with the potential participant who, in turn, has explicitly agreed to participate, that is, has given his/her *assent* to participate. Consent cannot be assumed given by the parent/caregiver if they do not respond to the request for written consent – assuming consent in the face of non-response is not acceptable.

To ensure informed consent, potential participants and their parent/caregiver (if under the age of 16 years) must be supplied with a participant information sheet. The participant information sheet will outline the nature and conduct of the research and any other factors that might reasonably be expected to influence their willingness to participate, as discussed above.

Consideration must be given to young people's literacy skills. Research indicates that young people under the supervision of Juvenile Justice may have lower reading skills than would be expected of people the same age, due to interruption of schooling, learning disabilities, being from a culturally/linguistically diverse background or other factors.

All consent forms and participation sheets should be written in language not containing jargon, or complex words/sentences. Where the use of complex words/sentences is necessary, a standard definition of this must be provided to the young people and/or their parent/caregiver. Where the potential participants are unable to read effectively, researchers will be required to read the content of consent forms and participant information sheets to the potential participant and/or parent/caregiver.

Both the information sheet and consent forms must clearly indicate the researcher's name and be on university letterhead.

When there is a requirement for the involvement of participants to be ongoing, this must be detailed in the consent form, and the information sheet. Details of follow up periods and expectations of the participants at the follow up time(s) will also need to be detailed. Consent will need to be obtained again at the follow up point.

If there are significant changes in the nature or conduct of the research, which might reasonably be expected to influence their willingness to participate, participants and the parent/caregiver (if the young person is under the age of 16 years) must be informed by the researcher of such changes in writing. The written consent of parent/caregiver and/or the participant must be obtained again.

6. Documentation checklist

Before submitting a full application to Juvenile Justice, please check that you have included the following documents in your application.

A completed *Application for approval to conduct research* form

A copy of all research instruments that will be used in the data collection phase

A copy of all interview schedules, questionnaires or other data collection instruments (including tests or stimulus materials) in their final form must be submitted for approval with the research application.

A hard copy of all Human Research Ethics Committee approvals

A copy of the committee's approval must be submitted before the Agency can give final approval. The university research ethics committees is asked not to make Juvenile Justice approval a condition for the University Research Ethics Committee's approval or, alternatively, to grant approval subject to approval by Juvenile Justice.

The Agency is happy to consider the proposal at the same time as the university ethics committee is making its own assessment. The Agency's final approval will be withheld until notification of the approval of the university ethics committee is supplied to the Agency.

A hard copy of any other approval to conduct research granted for the application

If the application is for approval to conduct research with other government/non-government Agency personnel employed within juvenile justice facilities, written evidence of approval from these agencies will need to be submitted with the application. If the research is being conducted across several agencies, the Agency will require all approvals to be forwarded as received by the researcher.

A copy of the Participant Information Sheet and Participant/Caregiver consent form

The researcher is required to provide a participant information sheet for distribution to all participants, and their primary caregivers if they are under 16 years of age. For some specific research projects, the Agency of Juvenile Justice may insist on parental/caregiver consent for all young people under the age of 18 years. Both the information sheet and consent forms must clearly indicate the researcher's name and be on university letterhead.

Letter to centre/community managers

A letter outlining the nature of the research must accompany approaches to Centre/Community Managers seeking approval to gather data in their centre/office for which they are responsible and the commitment required of JJ personnel. A copy of this letter must be included with the proposal.

The Agency reserves the right to temporarily or permanently deny access to certain facilities. This may be necessary if, for example, it is considered that the centre/office has already had excessive research demands placed upon it.

Proposal outline

A short outline of the research proposal should be provided, for forwarding to the Centre/Community Managers to be contacted, and for placement on the Agency's intranet site for information. This should be a maximum of two pages and include:

- A time line for the research
- The research questions or hypotheses
- The context and background for the research
- The means by which the data/information will be gathered
- The participants from whom the data/information will be gathered
- The methods for ensuring the privacy of participants

7. Appendices

7.1. *Royal Commission into Aboriginal Deaths in Custody* recommendations

RECOMMENDATIONS TO BE IMPLEMENTED IN RESEARCH STUDIES

Recommendation: 48

That when social indicators are to be used to monitor and/or evaluate policies and programmes concerning Aboriginal people, the informed views of Aboriginal people should be incorporated into the development, interpretation and use of the indicators, to ensure that they adequately reflect Aboriginal perceptions and aspirations. In particular, it is recommended that authorities considering information gathering activities concerning Aboriginal people should consult with ATSIC and other Aboriginal organisations, such as National Aboriginal and Islander Health Organisation or National Aboriginal and Islander Legal Services Secretariat, as to the project.

Recommendation: 51

That research finding bodies reviewing proposals for further research on programmes and policies affecting Aboriginal people adopt as principal criteria for the funding of those programmes:

- a. The extent to which the problem or process being investigated has been defined by Aboriginal people of the relevant community or group;
- b. The extent to which Aboriginal people from the relevant community or group have substantial control over the conduct of the research;
- c. The requirement that Aboriginal people from the relevant community or group receive the results of the research delivered in a form which can be understood by them; and
- d. The requirement that the research include the formulation of proposals for further action by the Aboriginal community and local Aboriginal organisations.

Recommendation: 269

That compliance with the National Health and Medical Research Council's Advisory Notes on Aboriginal health research ethics¹ be a condition of Aboriginal health research funding from all sources.

¹These Advisory notes have now been replaced by *Guidelines on Ethical Matters in Aboriginal and Torres Strait Islander Health Research*, available from the National Health and Medical Research Council website <http://www.nhmrc.gov.au/publications/synopses/e52syn.htm>

7.2. JJ Procedure for applying to conduct research

Juvenile Justice (JJ) has recently revised its procedures for applying to conduct research. All research applications are now processed through the JJ Research and Information Unit.

All researchers are strongly advised to read this document, in conjunction with the JJ Research Agenda, the JJ Research Policy and JJ Conditions of approval documents prior to applying to conduct research in the Agency of Juvenile Justice.

Researchers are also encouraged to read documentation provided on this site regarding previously completed and current projects in the Agency when considering an application to conduct research. This is to ensure that possible project areas will not overlap with existing, or recently completed projects.

STEPS IN THE APPLICATION PROCESS

Step one: Initial application

After reading all Agency information on research, contact the Research and Information Unit (RIU) Manager on (02) 9219 9515 or Research Psychologist on (02) 9219 9458. You will need to provide an outline of the proposed area for investigation. You are advised to have formulated your specific research questions prior to contacting the Agency.

Step two: First screening

The Agency will then assess whether your area of interest meets its priorities for research. If the research area is assessed as not being within the Agency's priorities, then the application will not proceed past this point.

Step three: Supplementary information

If the area is within the Agency's priorities and is seen as potentially offering some benefit, then you will be required to answer a short checklist so that JJ can assess costs and benefits to the Agency, and the impact on the young people under the Agency's supervision.

Step four: Second screening

The Agency will then assess the benefits of the research, and the viability of conducting the research i.e. can the Agency support it and what is the potential impact on resources and provision of service? If the research is not deemed viable, or the benefits are not realisable/attainable, then the application will not progress further.

Step five: Invitation to submit a full application

If the research is seen as viable and beneficial, then the Agency will invite the submission of a full research application. The application forms to conduct research in the Agency will then be provided.

Step six: Submission of full research application

The researcher will need to submit the research application for review by the Agency's Research Steering Committee, ensuring the following areas are addressed:

- Detailed explanation of the benefits of your research to the Agency.
- Details of all operational and Central Support Office resources required to assist the research project including staff assistance and infrastructure.
- Details of all potential costs that may be incurred by the Agency.
- A proposed schedule for data collection, including estimated time frames at each data collection site.
- A copy of all instruments/data collection tools to be used.
- A sound rationale for each data item to be collected or analysed.

A copy of ethics approval from a recognised Ethics Committee will need to be provided with your application. You may also need to seek ethics approval from the Aboriginal Health and Medical Research Council (AHMRC) if the research is concentrating on Aboriginal young people.

Applications without evidence of ethics approval will not be processed.

Further information regarding ethics approvals for human research can be accessed through the following sites:

- National Health and Medical Research Council (NH&MRC):
http://www.nhmrc.gov.au/guidelines/ethics_guidelines.htm
- Aboriginal Health and Medical Research Council (AH&MRC):
<http://www.ahmrc.org.au/Ethics%20and%20Research.htm>

Step seven: Consideration by the JJ Research Steering Committee (RSC)

The JJ RSC will consider the research application and if it believes the research is of significant benefit to the Agency, then the application will be sent to the JJ Chief Executive with a recommendation for approval. The Chief Executive makes the final decision on the research- without this approval in writing the project cannot proceed.

If the JJ RSC does not recommend approval, then the researcher will be notified of this decision.

Step eight: Coordination/implementation of approved research

The Research and Information Unit (RIU) will coordinate the administration for research projects within the Agency. The researcher will be required to sign a Research Agreement accepting the conditions for conducting research in the Agency. These conditions are provided in the document *Conditions of approval for conducting research*, which is available on this site.

Step nine: Completion of research

The researcher undertakes and completes the research project, abiding by the conditions set out in the research agreement. At the completion of the project, the researcher must provide information back to JJ regarding their findings, as specified in the research agreement.

No data can be released or presented publicly without the prior approval of of Juvenile Justice. This condition applies to all releases, including those being considered after the main study has been concluded.

The Research and Information Unit is available to answer questions regarding all aspects of the application process. Please contact the Research and Information Unit Manager on (02) 9219 9515 or Research Psychologist on (02) 9219 9458.

7.3. JJ Conditions of approval

The conditions of receiving approval to conduct research in the Juvenile Justice are detailed below. Researchers will be required to sign a written contract agreeing to abide by the conditions.

The Agency reserves the right to terminate research at any time, especially if the researcher acts unethically or compromises the security of the Agency/confidentiality of the participants. Please carefully consider the following conditions in your project design if you are invited to submit a research application.

Conditions relating to participants

- That the confidentiality of research participants is strictly maintained at all times.
- That all young people participating in research are treated with dignity and respect.
- That all participants understand and sign *Participant consent forms*. Any age of consent restrictions must be adhered to, especially with young people under the age of 14 years.
- No audio-taping, videotaping or photographing of either research participants or juvenile justice sites is permitted. You may seek special approval from the Chief Executive to access these modes of data recording, if it is considered critical to the research, however this would only be granted in exceptional circumstances. If the Chief Executive grants approval, in addition specific consent will need to be obtained prior to the research occurring from both the participant and the guardian.
- No incentives will be used to promote research without prior review and approval by the Agency. Where approval is granted, all participants will receive the same incentive.

Conditions relating to the use of data collected

- That all data is to be stored according to National Health and Medical Research Council (NHMRC) Guidelines and disposed of after a period of five years.
- Information that may identify participants cannot be stored with any data collected. In the event that a master list is required (i.e. for follow-up purposes), this will need to be detailed and approved during the application process, and stored separately to the data. All master lists will be forwarded to RIU upon completion of the project.
- All participant consent forms will need to be stored separately to any paper based data collected.
- That the data collected is not used for any other purpose except for the production of thesis/research report.
- All other uses of the data will need prior approval from the Agency i.e. publication of results in peer-reviewed journals or books, publications of reviewed/unreviewed reports on the Internet or in other forms of electronic/paper-based media, or presentation of results at conferences/workshops.
- Strictly no linking of data to other data sources that are held. You may seek permission for this from the Chief Executive; however any analysis proposed through the linking of databases will be treated as a new application to conduct research.
- Agreement regarding intellectual property of the data.
- That the researcher agrees to provide the Agency with a copy of the database collated,

along with any data dictionaries created prior to the conclusion of the research. This should be provided on compact disc.

Conditions relating to reporting and/or publication of results

- Work in progress will be provided to Juvenile Justice on a six monthly basis.

- That the final results of the research are communicated to the Agency in a timely manner, through the following avenues:
 - A copy of the completed research will be provided to the Agency.
 - A summary of the pertinent results will be provided to the Agency for dissemination to policy and operational personnel.
 - Young people or JJ employees who are participants in the research receive timely feedback. This can be through the summary provided.
 - If the research involves conducting testing of any kind (for example psychometric testing or medical tests), then the researcher is required to provide feedback of individual results to participants. This can be arranged through the Research and Information Unit.

- If the researcher terminates the project prior to completion, all data collected is returned to Juvenile Justice. Written notification of the reasons for termination and an assurance that all data has been returned will need to be provided. The Agency will then store the data for a period of five years according to NHMRC guidelines, after which time it will be destroyed.

- Any publication or conference presentation resulting from this research will need to contain an acknowledgement of the Agency of Juvenile Justice as the data source and acknowledgement to the JJ Research Steering Committee for approving the research.

Other conditions

- If there are any substantial changes to your research project, you will need to inform the JJ Research Steering Committee in writing.

- Compliance with the above conditions is necessary before any subsequent research applications will be considered.

- If at any stage the researcher is found to be in breach of these conditions, the project will be terminated. All data will be required to be returned to the Agency.

7.4. Excerpts from relevant legislation regarding privacy of information

See also the Privacy NSW website at www.lawlink.nsw.gov.au/privacynsw

7.4.1. Health Records and Information Privacy Act 2002

The *Health Records & Information Privacy Act 2002* ("HRIPA") governs the collection, use, disclosure storage and destruction of personal health information. The HRIPA applies to the Agency. In section 6 of the HRIPA "health information" is defined. In this Act, health information includes:

- (a) Personal information that is information or an opinion about:
 - (i) The physical or mental health or a disability (at any time) of an individual, or
 - (ii) An individual's express wishes about future provision of health services to him or her, or
 - (iii) A health service provided, or to be provided, to an individual, or
- (b) Other personal information collected to provide, or in providing, a health service.

Section 4 of the HRIPA defines a "health service" as including:

- (a) Medical, hospital and nursing services,
- (b) Dental services,
- (c) Mental health services,
- (d) Pharmaceutical services,
- (e) Ambulance services,
- (f) Community health services,
- (g) Health education services,
- (h) Welfare services necessary to implement any services referred to in paragraphs (a)–(g),
 - (i) Services provided by podiatrists, chiropractors, osteopaths, optometrists, physiotherapists, psychologists and optical dispensers in the course of providing health care

7.4.2. Privacy & Personal Information Protection Act 1998

The Privacy and Personal Information Protection Act (1998) ensures legally enforceable privacy rights for people and governs how public sector agencies deal with personal information. This Act governs the collection, use, disclosure storage and destruction of personal information.

Section 4 defines "personal information" as:

- (1) Information or an opinion (whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.
- (2) Includes such things as an individual's fingerprints, retina prints, body samples or genetic characteristics.

Section 8 of the Act refers to the collection of personal information being for a lawful purpose that is directly related to the Agency's activities and reasonably necessary for that purpose.

Section 12 specifically outlines the responsibilities around retention and security of personal information. A public sector agency that holds personal information must ensure that the information is:

- (a) Kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
- (b) Disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and
- (c) Protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) That, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.