DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

Office for Human Research Protections
The Tower Building
1101 Wootton Parkway, Suite 200
Rockville, Maryland 20852
Telephone: 301-435-0062
FAX: 301-402-2071

March 25, 2002

Colonel Maria H. Sjogren, MD
Chief, Department of Clinical Investigation
Walter Reed Army Medical Center
Borden Pavilion, Bldg. 6
Washington, DC 20307-5001

RE: Human Research Subject Protections Under Multiple Project Assurance (MPA) M-1503
Research Project: "Creation of a Tissue Library for the Molecular Biologic Study of Patients with Prostate Cancer" – Walter Reed Army Medical Center (WRAMC) Work Unit #2871-98
Principal Investigator: COL David McLeod, MC, Urology Service, Department of Surgery

Dear Colonel Sjogren:

The Office for Human Research Protections (OHRP), formerly the Office for Protection from Research Risks (OPRR), has reviewed your May 11, 2000 response to OPRR's letters of March 30 and April 24, 2000. Those letters requested that the Walter Reed Army Medical Center (WRAMC) investigate the circumstances surrounding WRAMC Commander COL Michael Dunn's delay of the January 27, 2000 institutional review board (IRB) determinations to (a) destroy previously collected tissue samples of subjects whose consent forms could not be located, and (b) instruct investigators not to contact subjects in order to confirm their prior consent and/or obtain additional consent. OHRP expressed concern that the Commander's suspension of the IRB's determinations possibly violated Department of Human Services (HHS) regulations at 45 CFR 46.112.

OHRP makes the following findings pertaining to the above research:

(1) HHS regulations at 45 CFR 46.112 state, in part, that institutional officials "may not approve... research if it has not been approved by an IRB." OHRP finds that WRAMC has

appropriately addressed OHRP's concern regarding a potential violation of 45 CFR 46.112 with respect to the above referenced research.

Specifically, OHRP finds that after the IRB's January 27, 2000 meeting, the WRAMC Ethics Committee met to review the above-referenced protocol. The Ethics Committee voted to recommend that the IRB reconsider its decision to require destruction of the tissue samples. In addition, the Ethics Committee recommended that in order to protect patient autonomy, the patients whose consent forms could not be located be contacted to ask whether they recalled giving consent, and whether they could produce a copy of their consent form.

At its March 31, 2000 convened meeting, the WRAMC IRB reviewed and discussed the Ethics Committee recommendations. Both COL Beam, Ethics Committee Chair, and Commander COL Dunn were present at the meeting. COL Beam stated that it was not the intention of the Ethics Committee direct the IRB's decision. The IRB voted to accept the Ethics Committee recommendations.

OHRP notes that it appears from the minutes of the IRB's March 31, 2000 meeting that while COL Beam left the meeting before the vote, Commander Dunn was present for the vote. OHRP questions whether Commander Dunn's presence during the IRB meeting, and especially during the IRB's vote on the Ethics Committee's recommendations, might have influenced the IRB's actions, and suggests that WRAMC consider whether it would have been more appropriate for these senior institutional officials to recuse themselves.

As a result of the above findings, there should be no need for further involvement of OHRP in this matter. Of course, OHRP must be notified should new information be identified which might alter this determination.

At this time, OHRP provides the following additional guidance to WRAMC with respect to its IRB Policies and Procedures. In addition, a copy of OHRP's Guidance for Formulating Written IRB Policies and Procedures is enclosed.

OHRP recommends that written IRB policies and procedures should provide the operational details for each of the following procedures required by Department of Health and Human Services (HHS) regulations at 45 CFR 46.103(b)(4) and (5):

(1) The procedures which the IRB will follow for conducting its initial review of research.

(2) The procedures which the IRB will follow for conducting its continuing review of research.

(3) The procedures which the IRB will follow for reporting its findings and actions to investigators and the institution.

(4) The procedures which the IRB will follow for determining which projects require review

more often than annually.

(5) The procedures which the IRB will follow for determining which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review.

(6) The procedures which the IRB will follow for ensuring prompt reporting to the IRB of proposed changes in a research activity, and for ensuring that such changes in approved research, during the period for which IRB approval has already been given, may not be initiated without IRB review and approval except when necessary to eliminate apparent immediate hazards to the subject.

(7) The procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, any Department or Agency head, and OHRP of (a) any unanticipated problems involving risks to subjects or others; (b) any serious or continuing noncompliance with 45 CFR Part 46 or the requirements or determinations of the IRB; and (c) any suspension or termination of IRB approval.

OHRP appreciates the continued commitment of your institution to the protection of human research subjects. Please do not hesitate to contact me should you have any questions.

Sincerely,

Carol J. Weil, J.D.
Compliance Oversight Coordinator
Division of Human Subject Protections

Enclosure: OHRP Guidance for Formulating Written IRB Policies and Procedures

cc (without enclosure): COL Michael Dunn, WRAMC
COL David McLeod, WRAMC
COL James Kikendall, WRAMC
LTC Christina Yuan, WRAMC
Audrey Chang, Ph.D., WRAMC
Dr. Michael Carome, OHRP
Dr. Jeffrey Cohen, OHRP
Mr. George Gasparis, OHRP
Dr. Melody H. Lin, OHRP
Dr. Greg Koski, OHRP
Mr. Barry Bowman, OHRP
Ms. Freda Yoder, OHRP
Ms. Janice Walden, OHRP
Commissioner, FDA
Dr. David Lepay, FDA
Dr. James F. McCormack, FDA