

Access to and use of judicial and other personal data in criminological or criminal law research: Privacy and data protection perspectives

Research Integrity Workshop | 1 February 2016

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Structure

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data gathered without consent persons concerned

extension initial data with newly gathered data

- through upgrade from other sources (socio-economic info)
- through interviews

(ex-post) solutions?

Q&A

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due respect for privacy & data protection as an integral part of

- any research methodology involving person-related data
- deontological research protocols (legally guaranteed respect for individuals)

privacy and data protection: interrelated, not identical

data protection: processing of personal data

addressing certain misunderstandings within research community

- personal data
 - identified or identifiable persons
 - inclusive of encoded data
- processing
 - even mere collection
 - anonymous reporting insufficient

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importance of differentiation between

- access
- processing (including use & reporting)

information security throughout research process

equally important in quantitative and qualitative research

- even higher risk of identifiability in qualitative research (smaller data sets)

additional hurdles for sensitive data

judicial; also: ethnic, health etc.

equally protective for (non)offenders/victims

access to data from data controllers having different/incompatible purposes

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Data gathered without consent persons concerned

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for data from judicial files: consent person concerned insufficient

access to be granted by judicial data controller

having been granted such access does not allow personal data processing

- specifically requested non-anonymous/encoded processing?
- if yes: only allowed for data controller after authorization DPA
- if no: data set violates data protection law + mere ex-post consent person concerned does not alter that (supra)

prior existence data management plan?

- processing, information security and deletion plan?

prior deliberation of need for other than anonymous or encoded data?

Extension initial data with newly gathered data

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through upgrade from other sources (socio-economic info)

- unlawful initial data and lack of consent will remain obstacles
- reluctance new data providers to provide, especially if non-encoded
- linking data: by whom? prohibition to link on researchers' level

through interviews

no direct contacting allowed

- unlawful initial data set
- opt-in requirement

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(Ex-post) solutions?

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detailed data management/processing plan

- including necessity and proportionality test
- duly motivating possible need for (non-)encoded (vs anonymous) data
- notification DPA for authorisation later use for scientific purposes

choice between

- aggregate existing data set (to avoid later re-identification or link possibility) + opt for encoded data processing + link data through independent official intermediary organisation + seek relevant authorisations from respective DPA sectoral committees + respect prohibition to try and re-identify/link
 - alternative (future): dual layer hashing system (Montrasec)
- collect initial informed written consent (through original data controllers) for processing, including linkage & follow-up through interviews

proper information/data security management (see UGent policies!)

anonymous reporting

deletion non-anonymous (even encoded) data set

- unless recognition by DPA (recommendation informally requested) of necessity (from an integrity perspective) to store safely in dedicated institutional repository with limited access rights
- NB: current clash between open access/right to mine & duty to delete/transferred copyright

Questions | discussion

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