Re: Tissue Banks Trigger Worry About Ownership Issues

Schmidt (1) discusses an interesting and important issue in his recent issue article about ownership of tissues stored in tissue banks. In short: Who “owns” the tissue? The patient? The professional in charge of the tissue bank? The institution housing the tissue bank?

In our opinion, one important issue has not been raised—namely, the fact that the material stored in tissue banks in general (except for some studies where material has been taken for specific purposes) concerns leftover material from diagnostic or therapeutic procedures. This material would normally be thrown away when it outruns its further diagnostic use. We argue that this makes patients’ ownership of this leftover material relative (2). In The Netherlands, any medical material formally belongs to the patient. Patients’ rights on tissue bank material could probably be lifted by fully anonymizing samples, as suggested by some (3), but this is a waste of valuable information, especially when markers are tested in relation to the course of a disease or to response to therapy (4). In The Netherlands (and also in Denmark and the United Kingdom), there is an opt-out system in place for patients who do not want their leftover tissue to be used for scientific or educational purposes (5). To address current and possible future legislation, we have nevertheless introduced for the University Medical Center Utrecht Biobank a one-time written general consent. With this consent, the patient donates his or her leftover biologic material (tissues and biologic fluids) to the University Medical Center Utrecht and not to an individual researcher, and the patient renounces right of ownership to any future discovery or patent based on research involving his or her tissue. A patient can always retract his or her cooperation by a written request, and the material will then be destroyed. Providing biologic material from our Biobank for research projects is done in line with the code “Proper Secondary Use of Human Tissue” as implemented by the Federation of Biomedical Scientific Societies (http://www.federa.org/?s=1&m=78&p=&v=4).

We think that in most instances it will be the institution providing the infrastructure to house a tissue bank and that therefore “ownership” lies with the institution rather than with an individual researcher.

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References
(2) van Diest PJ. No consent should be needed for using leftover body material for scientific purposes. BMJ 2002;325:648–51.

Notes
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