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Return of incidental findings to health research participants: an ethico-legal inquiry in the South African context

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ABSTRACT

Incidental findings (IFs), defined as discoveries with health or reproductive significance that are beyond the scope and aims of a particular study, are the subject of important debate in health research. Central to this debate is whether researchers have a duty and obligation to disclose them to research participants. The ethical and legal frameworks in South Africa do not explicitly address IFs and do not provide guidance on how they should be managed which creates an ethico-legal gap. This research examined the ethical and legal frameworks to determine whether they implicitly provide ethical and legal grounds and justification for the return of IFs to research participants in the South African context. The research concluded that researchers have an ethical and legal duty to return IFs of clinical utility and that are actionable. This is supported by the ethical principles of beneficence and respect for autonomy, and the ethical theories of deontology and utilitarianism. From a legal perspective, wide interpretation of South African laws and *quasi* legal guidelines show implicit support for the return of IFs. The research recommends that national guidelines for health research in South Africa be amended to provide direct and explicit guidance on how IFs should be managed. Further research to obtain the views of researchers, participants and other stakeholders on the return of IFs is also recommended.