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GUIDANCE DOCUMENT: RESEARCH INVOLVING FIRST NATIONS, INUIT, AND MÉTIS PEOPLES OF CANADA (TCPS2 (2022))

PART I: Introduction

If you are carrying out research with Indigenous peoples, we recommend that you review **Chapter 9 of the TCPS2** before you submit your research ethics protocol. This will ensure you are better able to address the questions included within the Indigenous Peoples tab in RAS. You may also want to refer to the information developed by the Working in Good Ways Project. The purpose of this document is to provide a brief overview and direct you to the relevant sections of Chapter 9 .

PART II: TCPS2 (2022)

Research involving Indigenous peoples in Canada has been defined and carried out primarily by non- Indigenous researchers. The approaches used have not generally reflected Indigenous world views, and the research has not necessarily benefited Indigenous peoples or communities. As a result, Indigenous peoples continue to regard research, particularly research originating outside their communities, with a certain apprehension or mistrust.

Growing numbers of First Nations, Inuit, and Métis scholars are contributing to research as academics and community researchers. Communities are becoming better informed about the risks and benefits of research. Technological developments allowing rapid distribution of information are presenting both opportunities and challenges regarding the governance of information.

Chapter 9 of the TCPS2 accords respect to Indigenous peoples' knowledge systems by ensuring that the various and distinct world views of First Nations, Inuit, and Métis peoples are represented in planning and decision making, from the earliest stages of conception and design of projects through to the analysis and dissemination of results. It affirms respect for community customs and codes of research practice to better ensure balance in the relationship between researchers and participants, and mutual benefit in researcher-community relations. It also acknowledges the role of community in shaping the conduct of research that affects First Nations, Inuit, and Métis communities and respects the autonomy of individuals to decide whether they will participate in research.

Re-conceptualizing the TCPS2 Core Principles:

1. Respect for Persons - Indigenous codes of research practice go beyond the scope of ethical protections for individual participants. They extend to the interconnection between humans and the natural world, and include obligations to maintain, and pass on to future generations, knowledge received from ancestors as well as innovations devised in the present generation.

2. Concern for Welfare - requires consideration of participants and prospective participants in their physical, social, economic, and cultural environments, where applicable, as well as concern for the community to which participants belong. Indigenous communities play an important role in promoting collective rights, interests, and responsibilities that also serve the welfare of individuals. Research should enhance the capacity of Indigenous Peoples to

maintain their cultures, languages, and identities as First Nations, Inuit, or Métis peoples, and to support their full participation in, and contributions to, Canadian society.

3. Justice - requires that people be treated fairly and equitably. Justice is compromised when there is a significant imbalance of power in the research relationship. Serious harms to Indigenous Peoples and communities have been the result. It is therefore critical to have engagement between the community involved and researchers, initiated prior to recruiting participants and maintained over the course of the research.

PART III: Researcher Obligations:

Where the research is likely to affect the welfare of an Indigenous community or communities to which prospective participants belong, researchers are required to **engage with the relevant community** (Art. 9.1). Engagement must be authentic as respectful, trusting relationships are integral to the research process. Researchers are required to inform themselves about and respect the **customs and codes** of research practice within the community(ies) with whom they engage (Art. 9.8).

Examples of situations in which engagement is required include:

- Conducting research on First Nations, Inuit, or Métis lands. If the researcher is a guest within the community, the onus is on the researcher to become informed about rules or customs that may apply within a particular community or in accordance with a particular authority.
- Recruiting participants where Indigenous identity is a factor, either for the full study or for a subgroup within a larger study.
- Seeking input on a community's cultural heritage, artefacts, traditional knowledge, or unique characteristics.
- Undertaking research where Indigenous identity/membership in an Indigenous community is a variable in data analysis.
- Interpreting results referring to Indigenous communities, Peoples, language, history, or culture in the context of both primary collection and secondary use.

The **definition of community** in this context is broad. It is not limited to a geographic area, but also includes representative bodies, service organizations, and communities of interest (Art 9.4). It follows that such groups may play a role in ethical review and project oversight. Article 9.2 provides helpful guidelines to illustrate the kinds of community engagement that might be useful for various types of communities.

Researchers are required to **engage with leaders** of a community (Art 9.3). In addition to REB approval, communities may have their own review/approval bodies. In some communities, **Elders or Knowledge Holders/Keepers** may also play a role in allowing and/or monitoring research. It may be necessary to secure approval from formal leaders and those with customary authority (Art 9.5).

As engagement with communities is considered, researchers must also remember that **some individuals or groups within a community** may face particular considerations that make

them more vulnerable. Strategies may need to be developed to ensure that these people are not excluded from participating (Art. 9.6).

Where research with Indigenous Peoples involves a **critical examination** of institutions, governments, organizations, or people in authority, researchers will need to ensure that cultural norms are respected, the safety of participants is protected, and potential harms to the welfare of
the larger community are minimized to the extent possible (Art. 9.7).

The **nature and extent of community engagement in a project must be determined jointly** by the researcher and the relevant community and must be appropriate to both community characteristics and the nature of the research (Art 9.2).

As there is wide diversity across communities, each community will require a particular way of engagement that works for them. For this reason, it is critical that there is **mutual understandings of expectations and obligations**.

Engagement will look different depending on the way in which a community is structured or organized. In some situations, engagement will occur with a formal governing body. In other situations, there may be an informal consultation process to determine how the community will be involved. In some circumstances, the researcher may engage with a number of councils, organizations, agencies, and/or associations. In other circumstances, the researcher may organize an advisory committee with representation from Indigenous individuals with expertise and experience in the area, to act as an oversight committee and/or to ensure culturally appropriate data collection and analysis processes.

Researchers are obligated to advise the REB of **how they have engaged** with the community(ies) (Art. 9.10). Such engagement **may** result in a **research agreement**, which should describe the terms and undertakings of the researcher and community including the collaborative nature of the research (Art. 9.12). These terms and understandings should be agreed to before participants are recruited (Art. 9.11). An agreement is not a substitute for securing the consent of individual participants.

Research agreements may include details of the purpose of the research, roles and responsibilities with respect to project design, data collection and management, analysis and interpretation, co-authorship, knowledge mobilization, conflict resolution, privacy and confidentiality (Art. 9.16), intellectual property rights (Art. 9.18), and rights and proprietary interests with respect to human biological materials (Art. 9.19).

Evidence of engagement may also take other forms including a written decision, documentation of an oral decision, a written summary of advice, or in the case of an ongoing relationship, a letter. Researchers may provide a rationale for seeking an exception of the requirement for community engagement (Art. 9.10).

The **level of engagement** of a community is up to that community to determine. The nature and **degree of collaboration** will depend on the nature of the research and the community context (Art. 9.12). Research should **benefit the community**, be relevant to community needs

and priorities (Art. 9.13), and support **capacity-building** (Art. 9.14). **Community representatives** should play a role in data interpretation and review of findings (Art. 9.17).

It is important to remember that including participants who identify as Indigenous **may not require local community engagement** where the study results are not likely to affect a community with which they identify and/or where the results of the research are not representative of Indigenous Peoples, communities, or populations.

An ethics protocol may require **reviews** by both a **community REB or other responsible bodies** and a **university REB** (At. 9.9). However, such reviews are likely to have different focuses and uniformity is not the goal.

Elders and Knowledge Holders should be engaged in the design and implementation of the research, including interpretation of findings (Art. 9.15) and their contributions should be acknowledged accordingly.

Researchers using **secondary data or human biological material** identifiable as originating from an Indigenous community or from Indigenous Peoples must engage the community from which the data originate where secondary use has not been contemplated in the research agreement and was not authorized by participants when the originally consented or there is no research agreement, and the data are not publicly available or legally accessible (Art. 9.20). Publicly available information protected by law or information in the public domain does not require community engagement (Art. 9.21).

NOTE: Whether engaging in the primary collection of data or undertaking secondary data analysis, be mindful of groups who may be over-represented in the data when considering whether Article 9 applies. For example, if the study is about children in care, Indigenous children may be over-represented, which will have implications for consultation and engagement.

Part IV: Conclusion

Chapter 9 of the TCPS2 is one part of the many requirements when conducting ethical research with human participants at the University of Manitoba. We encourage Indigenous researchers to engage in the existing relationships and governance structures that they may be accountable to in a way that works with the guidelines in the TCPS2, while also adhering to their own nation's protocols and governance structures, kinship ties, and pre-existing relationships.

PART V: Definitions (TCPS2 2022):

Community – describes a group of people with a shared identity or interest that has the capacity to act or express itself as a collective. In this Policy, a community may include members from multiple cultural groups. A community may be territorial, organizational, or a community of interest. “Territorial communities” have governing bodies exercising local or regional jurisdiction (e.g., members of First Nations who reside on reserve lands). “Organizational communities” have explicit mandates and formal leadership (e.g., a regional Inuit association or a friendship centre serving an urban Indigenous community). In both territorial and organizational communities, membership is defined and the community has designated leaders. “Communities of interest” may be formed by individuals or organizations who come together for a common purpose or undertaking, such as a commitment to conserving a First Nations language. Communities of interest are informal communities whose boundaries and leadership may be fluid and less well- defined. They may exist temporarily or over the long term, within or outside of territorial or organizational communities. An individual may belong to multiple communities, both Indigenous and non-Indigenous (e.g., as a member of a local Métis community, a graduate students’ society, and a coalition in support of Indigenous rights). An individual may acknowledge being of First Nations, Inuit or Métis descent but not identify with any particular community. How individuals define which of their community relationships are most relevant will likely depend on the nature of the research project being proposed.

Community customs and codes of research practice – may be expressed in written or oral form. Consistent with the world views of particular First Nations, Inuit, and Métis peoples, community customs and codes of research practice may embody kinship networks and responsibilities that include multi-generational obligations to ancestors and future generations. Ethical obligations often extend to respectful relations with plant, animal, and marine life.

Community engagement – is a process that establishes an interaction between a researcher (or a research team) and the Indigenous community relevant to the research project. It signifies the intent of forming a collaborative relationship between researchers and communities, although the degree of collaboration may vary depending on the community context and the nature of the research. The engagement may take many forms including review and approval from formal leadership to conduct research in the community, joint planning with a responsible agency, commitment to a partnership formalized in a research agreement, or dialogue with an advisory group expert in the customs governing the knowledge being sought. The engagement may range from information sharing to active participation and collaboration, to empowerment and shared leadership of the research project. Communities may also choose not to engage actively in a research project, but simply to acknowledge it and register no objection to it.

First Nations, Inuit, and Métis lands – include Indian reserves, Métis settlements, and lands governed under a self-government agreement or an Inuit or First Nations land claim agreement.

Indigenous peoples – a term used in international or scholarly discourse. In the Canadian context, the term “Indigenous peoples” typically refers to persons of Indian, Inuit or Métis

descent, regardless of where they reside and whether their names appear on an official register. Self identification is a fundamental criterion for defining Indigenous peoples.4 The term “Indigenous” does not reflect the distinctions among First Nations, Inuit, and Métis peoples, who have their own histories, cultures, and languages, so an attempt has been made to limit use of the term in this Policy to instances where a global term is appropriate. Indian peoples commonly identify themselves by distinct nation names such as Mi’kmaq, Dene or Haida, and as First Nations. In Canada, a comparable term, “Aboriginal peoples,” is also used in certain contexts.

Traditional knowledge – the knowledge held by First Nations, Inuit, and Métis peoples, the Indigenous peoples of Canada. Traditional knowledge is specific to place, usually transmitted orally, and rooted in the experience of multiple generations. It is determined by an Indigenous community’s land, environment, region, culture, and language. Traditional knowledge is usually described by Indigenous peoples as holistic, involving body, mind, feelings, and spirit. Knowledge may be expressed in symbols, arts, ceremonial and everyday practices, narratives and, especially, in relationships. The word “tradition” is not necessarily synonymous with old. Traditional knowledge is held collectively by all members of a community, although some members may have particular responsibility for its transmission. It includes preserved knowledge created by, and received from, past generations and innovations and new knowledge transmitted to subsequent generations. In international or scholarly discourse, the terms “traditional knowledge” and “Indigenous knowledge” are sometimes used interchangeably.