Chapter 9: Research Involving Aboriginal Peoples in Canada
Draft 2nd Edition of the Tri-Council Policy Statement:
Ethical Conduct for Research Involving Humans (TCPS)

COMMENTARY ON REVIEW:

Some of my comments may appear harsh, but only because the reality they address is harsh. I provide them with kindness and the hope that a more open communiqué will help define more effective policies to meet your stated principles of respect for persons, concern for welfare and justice.

P. 98 – 6): lines 3398 – 3411:
My observations below are based on my assumption about scientific research into contaminants with plants and animals samples: Samples are taken from living animal specimens after they have been drugged into a state in which they have no control over their body movements. Samples of living plants are taken as objects of study.

Observations:
Both methods (i.e. animal and plant sample gathering) are offensive to Indigenous people who have retained spiritual relationships with plant and animal as their relatives. They are disrespectful of the relationships with the land as conscious being, plants she produces to generate life as we know it, and animals to sustain our spiritual, emotional and physical health.

This is seen as abusive of the natural order and especially distressing for the elderly Aboriginal people. We believe that “nature” herself has to balance this abuse through human suffering which would be avoided if human beings approached the world with ceremony to meet its’ needs.

P. 98 – 99, 8): Lines 3425 – 3437
Information available “based exclusively on publicly available records...” may not be historically accurate from an Aboriginal perspective. Continued promulgation without Aboriginal verification will constitute, if the information is inaccurate, a continuance of the colonization of non-Indigenous minds to provide the political capacity for government and industry to continue their assault on Indigenous lands and resources as their inalienable right, i.e. the continuation of the politics of manifest destiny.

Line 3510 page 101
needs editing. “Vulnerable or marginalized .... should be not be

Line 3685 – 3686 page 105
One wonders whether any research other than required to build capacity, in an Aboriginal community which can’t get involved due to financial and human resource incapacity, is appropriate, pre-mature, or potentially damaging to the community.

It may be helpful for Chapter 9 to provide examples, as you do following article 9.2, of relevant research that would help the community build capacity to be involved in other kinds of research.
There may be examples of research urgently needed and communities may recognize that, yet provision should be stated explicitly here that the research outputs be vetted by a third party of the community’s choosing before it is released.

Line 3728 – 3730
“...costs incurred by the community ...” This, applied to line 3685 – 3686, may resolve some of the problem of incapacity for community.

Line 3731 Collaborative Research Article 9.12 to Line 3818 – 3828 Article 9.15
I would recommend that these articles be moved to the front of Chapter 9. as Articles 9.1; 9.2; 9.3; and 9.4. Current Article 9.1 would then become 9.5

Definitions for Collaborative Research, Community-Based Research and Participatory Research should be included in Section A.: Key Concepts and Definitions. Greater clarity is needed in the definitions of these terms. In effect the way they are used interchangeably, yet with emphasis on different aspects within their respective definitions appears as a ploy to bring confusion to the clearly defined meaning of Participatory Research from NAHO in their OCAP document.

Line 3734 The conjunction “or” is used between “Collaborative” and “Participatory” research. This implies that they are essentially the same, yet further down: Line 3739... and 3749... you expose their differences. Both have value in application depending on situation and objectives, however the ownership of Indigenous knowledge and justice to the Aboriginal community is not addressed. The wording of the “Applications” relating to these Articles may need to be made more specific to address these issues.

The combined impact of the core ethical values: Line 3224: respect for persons, concern of welfare and justice really calls for this policy to take on the overall characteristics of Participatory Research as presented by NAHO in their OCAP document.

Collaborative research which recognizes and applies “...distinct expertise to a project” (line 3740), is practical. In the interest of applying your principles, however, this should be seen, along with community based research as an intermediary step towards the application of Participatory Research criteria, identified in OCAP, to the research agreement and outputs, to ensure that the outcomes of the research do no harm; and benefit community welfare.

USE OF THE SUBJUNCTIVE: SHOULD
The document uses the subjunctive case in a number of places. This gives the policy statements more the characteristic of a desired standard, indicative of value and belief, while leaving the option open to researchers to implement the policy or not.

Examples:
Line 3732 – 3735 Article 9.12 page 106.
Line 3764 Article 9.13 “Collaborative research should...” page 107.
Line 3792 Article 9.14 page 108
Line 3818 Article 9.15 page 108
Line 3866 Article 9.17 page 110 In this context, the subjunctive “should” weakens Aboriginal peoples capacity to negotiate research agreements that respect them, their community welfare
and justice in relationship with the researchers. Using the subjunctive here reinforces the sense created by the way Articles 9.12 – Line 3888 Article 9.18 page 110 The debate you reference only exists because Indigenous world view is not respected in its’ own right. It is a direct threat to capitalism and remains a body of knowledge which standards indicate would be useful, but apparently only in as much as it can be integrated into the colonial psyche.

USE OF THE DEFINITIVE: SHALL
By comparison, where policy statements are sanctioned by Canadian law (e.g. privacy) the policy is definitive: Line 3830 – 3832 Article 9.16 “Where research agreements provide ... the consent of participants... shall...”

This is an unfortunate situation indicating that the Tri-Council, while promoting a standard, is not committed (capable?) to provide support of Aboriginal persons and communities through policy statements that require researchers to engage Aboriginal communities to achieve respect, wellness and justice.

As an Indigenous person, I understand that this is a difficult situation for the Tri-Council. You are an inherent part of the government of Canada. A government who’s laws remain today, with reference to Aboriginal people, colonial. The Indian Act, for example, is designed to maintain a strict control over “Indians” as wards of the state. The history of implementing the Act has generated a culture of oppression of “Indians” in the department. Perhaps a clearer understanding of the cultural environment in which the Tri-Council is working with reference to Aboriginal people in Canada would provide capacity for more effective wording in Chapter 9.

I understand that in the Canadian legal system, policy derives from law. Perhaps with courage the Tri-Council can apply an Aboriginal approach to policy. That is, Aboriginal policies, which I have been developing for the past 15 years, reflect the Aboriginal values, beliefs and world view and provide words to help understand the living experience of people within their customs. This is within the context of Customary Aboriginal Law, which is primarily Natural Law provided for by “legendary” beings such as Wesakechak and Yamoria, as well as by revelation in ceremony with the Spiritual realm.

Recommendation: that for the Tri-Council policies to achieve respect, wellness and justice for Aboriginal peoples, they need to reflect the Aboriginal reality. Otherwise, Canada’s colonizing relationships with Aboriginal peoples continues to be supported by this policy.

Line 3904 – 3905 page 111.
It has been the experience here in Fort Simpson and probably many other Aboriginal communities, that researchers who come and spend a few weeks, or even a year to learn about the Dene, and who then write a thesis on their findings to acquire a Masters or PhD, become the recognized authority on the Dene by Canada. The proposals by Dene who apply for development funds are vetted through these “experts” to validate whether the proposal reflects Dene needs. The “experts” apply their theories about Dene to the proposal, which may provide Dene information the “expert” has no knowledge of. The proposal is deemed culturally inappropriate, rejected, and the funds are refused.
“Ownership” like many other concepts carries different value in Indigenous culture than it does in Euro-Canadian culture. These two lines are a problem; they relate at the intellect level to the concept and outcomes of the “Free Entry Law” where material resources are concerned. Just because a person learns something from someone else doesn’t mean they “own” that knowledge and can sell it.

**Respect** requires knowledge and accommodation of another person’s reality. Lines 3904-3905 fly in the face of respect. As Indigenous people, we have been accommodating Western thought and value for centuries. A little consideration for Indigenous value and thought is appropriate here.

Value is acquired through experience. The value underlying the Western concept of “ownership” appears, from my read of European and Canadian history, to be the outcome of the experiences of people like the pirates Sir Francis Drake, Sir Walter Raleigh. Some claim they shared their booty with Elizabeth I to acquire safe harbour. Their work helped move the reign of Elizabeth to that of the wealthiest of Europe. Where does the saying: “Possession is 9/10th of the law” come from? The Free Entry law in Canada, to allow industrialists to acquire the wealth of lands for which Indigenous people believe they are accountable to their ancestors and the Creator, appears, from an analysis of the practices of European states to acquire wealth, to be the application of the value outcome of European piracy.

I hope the Tri-Council can do better than that in this policy.

Respectfully,

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