Memorial University’s Proposed Policy on Research Impacting Indigenous Groups

What We’ve Heard

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Key areas

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Memorial University requires that new policies undergo community consultation after they are drafted (Development, Approval and Administration of University Policies 2015). Yet after-the-fact consultation is not ideal for policies that can impact stakeholders and rightsholders across diverse communities. To ensure that the first draft of a policy on the role of consent in research involving Indigenous peoples, lands, and cultures reflected the needs, experiences, and concerns of diverse communities, the Office of the Vice-President Research undertook consultations before drafting a policy. This document chronicles what we heard during those consultations with an emphasis on areas of tension and challenge to support the process of drafting a policy.

Consultations and meetings were carried out between November 5th, 2018 and May 28th, 2019 and included (in chronological order):

- Memorial University St. John’s campus (open) (11/29/18, 12/12/18, 2/17/19, 2/8/19)
- First Light (formerly St. John’s Native Friendship Centre) (11/5/18, 12/21/18)
- Health Research Ethics Authority (HREA) (12/20/18, 5/28/19)
- Memorial’s ICEHR (1/21/19)
- Nunatsiavut Government (1/28/19)
- NunatuKavut Community Council & guests, including representatives from Torngat Secretariat (1/23/19)
- Labrador Institute (open) (1/23/19)
- Innu Nation (1/29/19)
- Memorial research administrators (2/8/19)
- Grenfell campus (open) (1/15/19)
- Grenfell campus grants and research admin (1/15/19)
- West coast Mi’kmaq groups (open) (1/15/19)
- Marine Institute (open) (2/4/19)
- Memorial’s Technology Transfer and Commercialization Office (2/6/19)
- Memorial University via Bluejeans for all locations (open) (2/13/19)
- School of Graduate Studies (2/20/19)
- MUNFA (2/28/19)
- Research Grant and Contract Services (RGCS) (5/9/19)

Presentations with invited feedback were also given to:

- Medicine Faculty Council (10/18/19)
- Memorial Research Council (10/25/18)
- Science Faculty Council (11/21/18)
- HSS Heads meeting (11/21/18)
- HSS Faculty Council (12/12/19)
- Pharmacy Faculty Council (1/31/19)

These presentations followed the acceptance of an invitation by the Dean of each faculty. Finally, we also received emails and letters from within and outside of the university.
Thank you to everyone that hosted and attended meetings and provided feedback.

While the Indigenization strategy consultations led by the Office of Aboriginal Affairs are not formally part of this consultation process, where those comments related to research they were included in this document as comments falling within the topics relevant to the development of Indigenous research policies at Memorial. These consultations, led by Catharyn Andersen, were conducted between August 2018 and March 2019 and included Burgeo, Cartwright, Charlottetown, Conne River, Corner Brook, De Grau, Flat Bay, Forteau, Goose Bay, Grand Falls-Windsor, Hopedale, Makkovik, Mary’s Harbour, Nain, Natuashish, North West River, Parson’s Pond, Port Hope Simpson, Rigolet, Sheshatshiu, Stephenville, St. Georges, St. John’s, and St. Lewis.

Mentions of research from these broader consultations are included here. However, when there is a statement about “most” or “all” Indigenous community consultations, it refers only to consultations specifically about the proposed policy.

Overall, feedback was positive about the general need to have consent be part of research involving Indigenous peoples, lands, and cultures.

The comments below are in response to a broadly outlined proposed policy for Indigenous consent for Indigenous research, where research that involved, impacted, or took place on Indigenous land, cultures, peoples, languages, etc, require documented consent from an appropriate collective before research begins. While many ethics frameworks account for these aims in different ways, there is no framework at Memorial that addresses all disciplines, types of research, and collective consent.

This document outlines the statements heard at consultations from all groups. It is only a document of what we heard, not how we will address them.

This document will help guide a working committee to draft a formal policy. During consultations, we heard many, many good ideas for Indigenous research relations that fall outside of the proposed policy and will be reflected in a best practices guide. Thank you, wela’lioq, nakummek, tshinashkumitinau.

**Key areas**

1. **Indigenous community consultation processes:** There were a number of discussions related to the consultation process, especially at initial information sessions, regarding the need for appropriate representation of Indigenous communities. This included ensuring groups that are not necessarily represented by Indigenous governments were consulted, and questions of how consultation and eventually consent will be conceptualized/respected in the case of the Beothuk. A consistently expressed need was for consultation processes with Indigenous communities to be meaningful, meaning that they must address “(i) What recurrent problems/issues related to Memorial researchers and grad students will be addressed by this policy? [and] (ii) How can Memorial researchers and grad students be better research partners?” (Letter from faculty). Some
people requested accessible records of consultation and trackable impacts of these consultations on the policy. Note that not all of these requests came from Indigenous communities—many were from settler university community researchers and allies. Overall, there was high synergy across groups consulted on these topics.

2. **Faculty and staff consultation processes:** There were mixed and opposing views on the process of Memorial University faculty and staff consultations. Some staff, professors, and faculties noted that they were pleased to be part of the consultation process and detailed how their work could contribute to and be impacted by the new policy. Other faculty members expressed they did not feel well consulted overall and specifically requested more robust consultation with settler faculty engaging in Indigenous research that exceeded the current consultations, given their existing expertise and strong relationships with Indigenous groups. Both those that felt well consulted and those that did not provided feedback on issues, challenges, areas of success, and questions in regard to the proposed policy.

3. **Community-researcher relationships:** Indigenous consultations consistently stated that consultation was a crucial part of starting research relationships, and a common statement was that Indigenous groups preferred to know the person and their work beforehand and talk face-to-face. Communities expressed that research conducted within and with Indigenous communities must benefit communities in ways they define and that academically-defined benefits often had no or low relevance in community. Many felt that the proposed policy would help move researchers in this direction.

One Indigenous group explained that researchers often proceed with an attitude implying that the community is lucky to have them doing the research, rather than gratitude for the labour of cooperation, access, and hospitality provided by communities. This group stated they often want to be considered co-leads on projects, allowing them to be involved in every stage and also be recognized for their research.

Other communities put more stock in benefiting from the results of research and training than specifically in benefiting from co-leading. Others articulated that it was most important that researchers listen to communities and allow them to be involved in the capacity that was most appropriate for them in terms of resources, time, and desire for the project.

Despite differences in expression, all Indigenous groups consulted desired access to the results in a form that was neither so academic that it was unintelligible, nor felt like they were being looked down upon. All Indigenous consultations reported a mix of experiences with researchers, including ones characterized by excellence. There was a specific request to ensure Memorial did not miss “an excellent opportunity to build on long-term reciprocal relationships that researchers at Memorial already have in place, and meaningfully support the many researchers who are actively and ethically engaged in research with Indigenous communities throughout Newfoundland and Labrador and beyond.” Some stories of excellent and ethical researchers in Indigenous communities centered on graduate students from Memorial as well as other institutions.

University participants worried that if secondary data requires consent, the number of inquiries may become so high that research cooperation will be discouraged by communities. This was
further exacerbated by arguments that the more arduous the process was, the less engagement would result.

One researcher raised the concern that certain individual Indigenous community members may become positioned as ‘gatekeepers’ or ‘points of entry’ and may control access to communities, giving them the ability to stop or permit research projects. This was also a concern when dealing with ‘vulnerable’ groups or subgroups within populations where they may not be effectively represented by leadership. Many community members and university participants also expressed fears that this process would become merely another ‘box to check’ and, as such, would tokenize Indigenous peoples in a shallow form of cooperation.

4. **Special case of student research**: Citing cases in the past, faculty and staff at Memorial articulated a need for graduate students’ degree progress to be protected in the event that consent is revoked. Suggestions of how to do so included research agreements and codes of conduct, or a specific policy relating to student/advisor responsibilities. Others discussed the role of secondary research rather than new data collection in the case of shorter degrees like master’s degrees. There is a need to establish a balance between ensuring that graduate students, as less experienced researchers, are protected while also ensuring that research is ethical, appropriate, and respectful of Indigenous communities and peoples involved.

Classroom research was brought up consistently by university stakeholders. Concerns included that the necessity of consent would take too long or be too difficult for a semester-scale project, that standing consent with rotating students was acceptable, or that whether or not the classroom research left the classroom (through publications, archives, public presentations, etc) should be considered. When directly asked, Indigenous participants stated they did not see the difference in ethics, best practices, or required conduct between classroom and non-classroom-based research, and many assumed that classroom research did get ethics clearance like other research.

5. **Finances and funding**: Faculty, staff members and communities all mentioned how expensive this consent policy could be and how it would affect their different forms and structures of funding. Indigenous communities and some faculty regularly inquired as to whether Memorial would subsidize the possible administrative or organizational costs of an increased demand for administrative support from Indigenous governments and groups, especially if secondary data is included in the consultation policy. Given the significant administrative weight of research on communities involved, the question of capacity, and how capacity might be shared, is of particular importance.

Most Indigenous governments mentioned they were already extending considerable internal resources to dealing with academic researchers, and most had formalized processes for research requests. Consultations with Indigenous communities in both southern and northern Labrador, as well as Memorial staff working in areas related to research ethics, emphasized the need to pay Elders, research participants, and other knowledge holders that contribute to research endeavours, stating that there are gaps in researchers’ knowledge of appropriate behaviour in communities where there is uncertainty about who should be paid, how much, and how to apply for grants and funding, as well as problems with associations like Research Grants and Contract Services (RCGS).
that are not accustomed to considering the types of costs and benefits associated with community
based research.

Researchers across faculty and schools at Memorial worried that the high community engagement
that the proposed policy necessitates might hurt their ability to apply for and be competitive in
funding competitions, and a few raised the potential harm to their ability to fit academic
requirements for tenure and promotion. Several Memorial faculty, including many who have
ongoing and long-term research partnerships with Indigenous groups, advocated for internal seed
funding to allow for researchers to engage with communities and build meaningful relationships
prior to research, as well as supporting them where other funding models may not be able to.

6. **Training and education:** A strong and consistent message from all Indigenous consultations was
that some of the researchers coming to their community were not adequately prepared or trained
to do research with Indigenous peoples and places, and so training is paramount when considering
cooperation. They noted the high social and economic costs to Indigenous communities of
managing these researchers and asked that Memorial take responsibility for researcher training.
Content for such training was often outlined with enthusiasm and have been recorded in a
Principles of Engagement document. Similarly, Memorial faculty and staff outlined that
researchers, students, and those working within reviewing institutions at the university (i.e. RGCS,
ICEHR\(^1\), and other REBs\(^2\)) require training in order to facilitate positive practice, consistency, and
benefits for communities as well as researchers. This was emphasized further for graduate students,
who may require specific education and guidance to allow them to make reasonable goals during
their programs as well as to know the process they and their supervisor must go through. Overall,
all groups consulted requested training for researchers, as well as outline the kind of content such
training should include.

7. **Complications of consent:** A variety of participants identified areas or instances where consent
becomes difficult when considering collective consent and community consent or jurisdiction. A
faculty letter summarizes an oft-mentioned point: “The policy must consider the difference (and
conflicts) within populations… for whom Indigenous governments should not necessarily have the
right to provide consent.” Often these discussions identified cases such as on urban groups and
subgroups within communities such as women or trans/two spirit people that may have Indigenous
governments that cannot adequately represent or support them. Researchers consistently asked for
clear guidelines or protocol for how/if they can receive consent when studying subgroups within
communities without gaining consent from Indigenous governments. In particular, researchers and
research staff called for instructions on how to navigate atypical scenarios. Indigenous governance
groups were very clear that all research had to receive consent from government when conducted
within their jurisdiction, and one group called circumvention egregious and colonial, even if well
intentioned. Similar tensions were noted in consent structures around a one-off ‘box to check’
approach versus an ongoing consent process of reaffirmation and negotiation, in collective versus
individual consent, and in terms of who can speak for communities and as community, including
for groups like the Beothuk who do not have any designated advocates in terms of research.

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\(^1\) Inter-disciplinary Committee on Ethics in Human Research (based at Memorial University)
\(^2\) Research Ethics Board (generic term)
8. **What kind of data requires consent?** There was both confusion and disagreement around the kinds of data and research that should require consent. Researchers often referenced the Tri-Council Policy definitions of research with Indigenous peoples (in TCPS2) that focuses only on primary, human research as requiring consent. However, every Indigenous group stated that since all environmental and resource research conducted on their land affects them and is related to them. One participant stated that land-based research is fundamentally part of Indigeneity and so all Indigenous research involves humans and, therefore, requires consent.

Researchers often asked whether water and the ocean is considered ‘land.’ During consultations in Labrador, every group stated that water was ‘land’ in this context, and water-based research should be treated the same as land-based research. Some Indigenous participants stated their wish to have control over publicly held data, such as artifacts, while others believe they do not have the capacity but still wish they were consulted. This leads into a wider discussion about whether or not publicly available secondary data requires consent, including creative works, artifacts, census data, satellite data, media, and oral histories.

Several staff asked about whether evaluation surveys (such as evaluating what jobs are needed or whether programs were working) is considered research under the policy since it isn’t considered research under ICEHR and Tri-agency programs. Indigenous advocates in the south of Labrador believed that this ought to be up to the communities, not universities or state agencies. There was a call from researchers for specified protocol to be produced detailing how studies like clinical trials, media analysis, or classroom presentations will be affected. Some faculty members argued, “Requiring consent for use of all secondary data is wholly unachievable and will stunt research.” At the same time, an Elder noted that, “we want control over our stories” even if they are already published. There was also concern about research that is ‘suddenly’ Indigenous, meaning that involving Indigenous populations was not part of the research design but occurs unexpectedly during the process (such as having survey respondents that self-identify as Indigenous or doing natural science work in an area that is granted a land claim), and how this ought to be navigated.

There were also questions about whether research that included but was not restricted to research on Indigenous peoples, such as research in Goose Bay or St. John’s broadly, would fall into the category of Indigenous research and require special consent. A similar question was often asked about land claims versus customary territories, with one faculty acknowledging that since all land is technically Indigenous land, logically wouldn’t all research of every kind have to go through a process of consent?

9. **Systems to put in place:** Both faculty and staff participants at the university highlighted that it was important to have documents and systems in place for them to increase their capacity to do this work. These variously included: email templates, consent letter templates, Indigenous group contact lists, maps of whose land is where, relationship brokers (designated staff to do introductions, training, advising, etc), trainings, best practices guides, grant facilitators specializing in Indigenous research, and formalized settler colleague groups with researchers experienced in successful relationship-building to advise them.

Many Indigenous participants strongly emphasized that researchers should be made aware of the institutions and processes that researchers are already required to go through within Indigenous
communities, particularly Indigenous research review boards, and every community said they had some form of review, either formal or informal. They emphasized that many Indigenous governing bodies have designated research staff, and these are the main and sometimes only people who should answer questions and direct researchers in terms of the official government requirements and processes. Other groups had less formal staffing roles for research but agreed that government-level discussions should be had with government representatives. There was also a call for researchers to be accessible to communities so they communities could build their research capacity, receive help researching priority topics, and aid in maintaining some sort of database that helps to ensure that research requests and projects are not redundant when they come from the university.

Participants at an Indigenization conference emphasized the need for communities to hold their own data, but also to share it – to establish systems that allow for respectful access and meaningful cooperation. Also at this conference it was emphasized that there can be no standardization when it comes to principles of consent and data sovereignty – this must be a living, ongoing negotiation process as a result of the heterogeneity of both communities and research processes.

A faculty letter lobbied for an Indigenous ethics review board to be established at Memorial as well as or instead of a consent policy. Staff and faculty consultations desired formal practices that allow for Indigenous peoples to be included on decision-making bodies within the university such as awards and grants committees as rightsholders. Also recommended were changes such as incorporating Indigenous community members into advisory boards for students doing community research, the establishment of community liaisons to act as moderators between communities and researchers, and changes to how research is considered when evaluating faculty job performance.

10. **Enforceability:** How the proposed policy will be enforced was discussed by a wide variety of participants. Faculty and staff at Memorial mentioned types of research that would be impossible or difficult to govern, including research using publicly available secondary data, unfunded research, and classroom research. Both university participants and Indigenous participants emphasized the need for protection and response should the research process go awry. Within this, some Indigenous participants emphasized that their community ethics processes cannot, should not, and must not be circumvented or replaced by any university institutional ethics processes, and that Memorial had to be accountable for when its researchers did not follow this process.

11. **Additional clarifications:** A number of the responses from, in particular, faculty, researchers, and students in sessions and through correspondences pointed to the need for a guide through new ethics and consent processes. Some of these questions included: how will this work when Memorial researchers are working on projects with researchers at other universities? Where will inquiries regarding this policy go? When this policy comes into effect, what happens to research (especially for graduate students) that may have not received consent when it began? Some communities only accept research inquiries during specific times, how will the policy account for this? How are jurisdictional overlaps to be navigated, such as when two governing bodies claim the same land? For graduate students, what are the student’s responsibilities and what are their supervisors’? How will scale of research be taken into account, such as with research sites that include multiple provinces? Does this apply internationally, and how? One faculty letter desired
“clear and documented analyses of why this policy is needed… is it to fall closer in line with TRC recommendations, for example?”