To Ms Heather Munroe,
Secretariat on Responsible Conduct of Research,
350 Albert Street,
Ottawa, ON K1A 1H5

Dear Colleague:

Re: Suggestions for the revised 2014 TCPS (2014)

I am much cheered by your on-going efforts to make the TCPS a “living document.” I am a professor emeritus and a sociologist who is now formally retired from the University of New Brunswick.

The suggestions, I believe, propel the TCPS further into the arms of the ethics of medical research and represents a continuing shift away from the needs of ethical research in the social sciences. The proposed changes require social researchers to contort themselves to fit the biomedical model of research.

No less important is the source of the TCPS and REBs as places of social tension, scholarly dislocation, and social fragmentation of university life creating walls where none existed before.

1. The concept of vulnerability.

I appreciate the attempt to rephrase the context under which vulnerability occurs, but the term is completely out of tune with contemporary attitudes towards those who have been defined as “vulnerable.” It is time that ethics codes relinquish this archaic and anachronistic term and replace it with a term that is more in line with contemporary considerations of “vulnerability.” People originally defined as “vulnerable” are offended by that term. They are a few natural exceptions, but, on the whole, it is a term that mis-characterizes people.

The current proposal suggests that people can become vulnerable on account of research. This proposal is a step forward, but it is mainly directed to the potential effects of medical research, not of the social sciences. Yes, while is is true that some research creates a vulnerable context, one wonders whether the proposed changes in the TCPS over-state the dangers of research. Surely, there must be a way of modulating the proposal to avoid the idea that the dangers of social-science research is equivalent to those in medical research. One nearby REB requires my daughter’s consent if a researcher wants to interview me because that requirement applies to anyone over 70 like myself who, because of my age, is considered vulnerable. Medical
researchers have specific notions attached to vulnerability, but those notions should not migrate to the social sciences/

2. Article 2.3 Application and Article 3.7A Application, last paragraph.

May I suggest the following change?: “If community-level research involves interventions.....” Observational research also involves engaging with research participants (and others) in the field, including interviews, resorting to study, for example, the history through archival documents. Social scientists do not easily or narrowly compartmentalize their research strategies.

3. Article 3.7B Application, 2nd paragraph (and Article 4.8) (re: “expected outcomes” and “hypotheses”)

(a) This particular paragraph (Article 3.7B Application, 2nd paragraph) leads one to think that researchers know what the expected outcome of the research will be (so that they can properly inform research participants as part of the consent process). In good inductive research, however, the expectation is that the researcher is hoping to find something different than what he or she started out with. In the minds of social-science researchers, including especially of qualitative researchers, one’s research is seen as quite inadequate if there were no change in one’s anticipated outcomes. Somehow, the TCPS must reconcile these two different visions of research so that at least researchers in the social sciences are not inevitably anchored to the promise about the alleged expected outcome of their research.

(b) Similarly, Article 4.8 echoes the same understanding of what constitutes “real” research, when it says that “[r]esearchers shall disseminate, through publication or otherwise, the analysis of data and interpretation of research results including those that do not support the research hypotheses.” [sic]. This statement brings to mind the persistent questioning by REBs of research plans proposed by qualitative researchers whose plans do not contain hypotheses.

4. Article 4.1 Application, 1st and 2nd paragraphs (re: “Justice”)

(a) Regarding the statement that the TCPS “imposes a duty on researchers not to exclude individuals or groups from participation for reasons that are unrelated to the research.” This particular concept of “justice” while common in medical research is actually quite foreign to the nature and purpose of research in the social sciences. One of my colleagues interviews widows. Is she now obligated to research widowers as part of that study? Another instance: As can be understood from my above comments, this statement is confusing or makes no sense for social scientists.

(b) The TCPS also states that, “[s]imilarly, some groups have been unfairly included in research because they are convenient populations for research.” What is excluded in this list are students who are regularly used in psychology classes as research participants. Faculty do make the point that students are voluntary participants in such studies, but if they refuse, they are offered a chance to write an essay. These two options are hardly comparable, forcing students to
be research participants as the easier option.

5. Article 6.11, Application last paragraph (re “consent materials”)

Does the repeated reference to “consent materials” mean that social scientists always needs to use signed consent forms? Chapter 10 makes it clear that signed consent forms are problematic. A recent report of an international survey of 315 ethnographers’ experiences of ethics review and a national cross-disciplinary survey of 1,415 academics’ experiences of ethics review reveals that “ethics committees’ demands for written consent is one of the key symbols of these committees’ failure to understand ethnographic research methods and the diverse cultural and political contexts in which they do their research.” REBs seems to have forgotten to allude to provisions in Chapter 10 about the opportunity not to use consent forms when conducting some kinds of research.

6. Chapter 10 (line 793): Section A, General Approach and Methodological Requirements and Practices, 5th paragraph (re “questioning the social structure” should include REBs)

Researchers will be gratified to read the proposal in the TCPS that, “[r]egardless of the methodological approach, researchers who question social structures, or deal with the disempowered, may face pressures from authority figures. Research may also involve participants, such as business executives or government officials, who may be more powerful than the researchers.” Interestingly, the idea of involving REBs in these studies is not mentioned. I would urge that REBs be added to that list.

7. Application (line 382) (re: “valuable research” and “timely publication of findings”)

The suggestion starting on line 382 says that because of the risks and burdens research participants have to bear. “research must be valuable,” and that the findings must be “added to a publicly available database ...”). The publication of the findings must be done “within a reasonable time.” There are a number of relevant issues that surround these assertions.

First, in light of the nature, methods, and goals of social-science research it is not always clear that the research is “valuable” or even promotes “social good”. The evidence that social-science research is valuable often appears many years after the research. Arlie Hochschild’s National Book-Award book, Strangers in their Own Land, took at least five years to appear in print.

Second, because a large number of peer-reviewed papers are now published through profit-oriented journals and made available only with a fee, it is unlikely that even scholars themselves, let alone the general public, have the means to access these articles. Some journals do not even allow scholars to save an archival copy of their paper. However, this does not lessen the importance of getting one’s research published as soon as one can. Speaking from personal experience, I note that my own book-length research projects will take any time from 3 to 17 years to find their way into publication.
8. Article 5.1 Application, last paragraphs (last 466) (re: “Legal requirements”)

I found this proposed re-write fascinating: “Researchers who are considering resisting disclosure must be aware of the personal consequences of choosing to respect ethical principles rather than legal obligations.” A curious policy, indeed. It is not clear what the mandate of the REB is to help researchers in this situation. Researchers have gone through a lot of effort to gain ethics approval for their research, but might be expected to surrender their ethical stance to fulfill a legal requirement. I suggest that the TCPS specify the role of the REB should play in these cases.

9. Article 6.11 (re: “pilot study” and “an exploratory phase of a study”)

It is probably a good ideas to be clear about the difference between a pilot study and an exploratory phase of a study. Only one of them is defined in the Glossary. In any case, both terms resonate differently in the social sciences than in the medical fields.

10. Article 6.11, Application 3rd paragraph (re: “data”)

The need to surrender all data collected in the exploratory phase of the research raises questions. Surely, one has to consider what constitutes “data.” Are they observational data? In any case, one wonders how can a researcher undo the knowledge and insights gained from data gained in the exploratory phase?

11. Section B, Introduction to Article 10.3, 5th paragraph and Article 10.3 Application, 5th and 6th paragraphs (re: “exemptions”)

(a) “Observational studies in public places where there is no expectation of privacy may be exempt from REB review (see Article 2.3).” Please change the text back to “are exempt.”
(b) “In research involving observation of human acts or behaviours in natural environments or virtual settings where people have a reasonable or limited expectation of privacy, the researcher shall explain the need for an exception to the general requirement for consent.” This statement leads to extensive back-and-forths between researcher and REB. A conservative oriented REB will insist on consent. This statement makes no difference between “human acts or behaviours in natural environments” and “virtual settings where people have a reasonable or limited expectation of privacy.” Surely, there is a large difference. Why lump them together?

12. “Levels of risk”

I know that “levels of risk” is a constant theme in research-ethics policies, but it is a concept that traverses more across medical styles of research than research in the social sciences. While the proposed suggestions provide a few worthwhile examples to consider, it does not make much sense to put all “risks” under the same umbrella. Similarly, the idea of “minimal
risk” is subject to a variety of interpretations and REBs interpret this term very widely. For medical researchers the term “levels of risk” might be clear. For researchers in the social sciences, it is less clear and less meaningful. The uncertainties and risks associated with medical research take on a different hue in social research where one does not find the same intense risk as in medical research.

13. The problematic aspects of devolving ethical decisions to REBs

(a) Some of the suggestions might provoke deeper problems with enhancing or nurturing ethics in research. For example, on pp 75, 90, 333, and 706 we read that researchers should consult the REB if there any doubts about particular points in the TCPS or if the TCPS has not yet clarified a policy. Down the road, this devolution of ethics decision-making may prove to be an harbinger of more conflict and competing interpretations of the TCPS. I believe it is a mistake to state that, “When in doubt about the applicability of the articles to their studies, researchers should consult their REBs.” The open statement, as proposed, leaves an area open to abuse by either the ethics committee or its chair who might use the decision to deepen rifts. Decisions by ethics committee or by their chairs might advertently cause rifts within a department or institution. Disputes are not uncommon in universities. Being on an ethics committee gives a member very extensive powers. Despite their ideals of encouraging ethical practices, REBs can sharpen conflicts. The Chair might represent a methodological or ideological appetite not shared by others. In my experience, too, legal-minded chairs on REBs offer so much resistance to research that they can create unsurmountable speed bumps along the way. Asking researchers to turn to these kinds of REBs is to nurture conflict.

(b) There are currently no protections against such adverse practices or abuses of authority. While knowing the frustrations of my colleagues with these practices, a group of international scholars who had attended the “Ethics Rupture” Conference held in October 2012 drafted The New Brunswick Declaration on Ethics in Research whose main goal was to offset conflict engendered by research-ethics policies and to collectively consider the diminishment of the social sciences. The New Brunswick Declaration not only expresses the well-considered sentiments of these researchers, but also set out a simple, but radical solution: members of ethics committees should treat researchers in the same way that they expect researchers to treat research participants. The New Brunswick Declaration highlights the need to view relations between ethics committees and researchers as ethical. In matters of research-ethics governance, is it not logical that those relations with researchers be ethical?

The New Brunswick Declaration highlights a number of significant points. The Declaration explicitly connects to the Universal Declaration of Human Rights and extends ethical principles beyond the regulatory culture of ethics regimes in particular, the right to freedom of expression, the right to conduct research, and the right of researchers to be respected, not demonized. The Declaration argues that the conventional, adversarial relations between ethics committees and researchers should be transmuted into an ethically more viable relationship.

(c) There are not many scholarly-publishing venues left that do not require a formal acknowledgement that the research has “passed ethics.” Such a mention has become a trite
exercise and reveals not much about the intricacies of doing ethical research. I call this system of up- and down linkages of ethics approval as “vertical ethics.” The system of vertical ethics can produce less than desirable results. The home REB might approve the ethics of the research, but a journal might still foreclose on the publication of an article, using an ethics temperature gauge that is at odds with the original basis of approval. The \textit{New Brunswick Declaration} argues that vertical ethics holds many problems without making the research (or the publication of such research) more ethical.

(d) There is a longing, whether inside the formal ethics regime or outside of it, that students as upcoming scholars should get a taste of what ethical research is like. It is hard to know how ethics in research can be taught, however. When ethics staff are invited to teach about ethics, the most predominant approach is about how to prepare ethics applications and forms–hardly a matter of teaching students how to reflect on ethics in research. The \textit{New Brunswick Declaration} posits an ethical relationship between ethics committees and researchers.

\textbf{In Summary}

I find that many suggestions reflect more a concern with bio-medical research than with research in the social sciences. These suggestions may look fine to medical researchers, but researchers in non-medical fields will inadvertently interpret them as also applying to the social sciences. There are many publications in the field of research-ethics review that bemoan the fact that ethics guidelines are written from the perspective of the medical sciences (there are an estimated 340 of such publications). The proposed suggestions, if not made explicit as applying to medical research, reinforce that perspective.

It is a “toxic mix” when an REB in a liberal-arts university has to work with the bio-medically framed \textit{TCPS}. A legalistic interpretation of the \textit{TCPS} in these universities adds to the discouragement that researchers experience.

It should be noted that the use of some terms are not typical in the social sciences, such as “study design,” “research instrument” (e.g. Article 6.11), etc. These terms need to be eviscerated from future \textit{TCPC} versions if the \textit{Policy} is to remain relevant to researchers in the social sciences. The expression, “Research benefit misconception,” articulates the \textit{TCPS} with a medical overlay. It must be made clear that some terms only find their applicability in medical research. A medical document. As unfamiliar I am with this expression, it reads awkwardly. For some of us, the expression in incomprehensible.
(W.C. van den Hooaard, 2 November 2016, cont’d)

**The New Brunswick Declaration: A Declaration on Research Ethics, Integrity and Governance**

1. seeks to promote respect for the right to freedom of expression;  
2. affirms that the practice of research should respect persons and collectivities and privilege the possibility of benefit over risk.  
3. **believes researchers must be held to professional standards of competence, integrity and trust, encourages regulators and administrators to nurture a regulatory culture that grants researchers the same level of respect that researchers should offer research participants;**  
4. seeks to promote the social reproduction of ethical communities of practice.  
5. is committed to ongoing critical analysis of new and revised ethics regulations and regimes  
6. shall work together to bring new experience, insights and expertise to bear on these principles, goals, and mechanisms.

**Sources:**


sincerely,

Will C. van den Hooaard  
Professor Emeritus