An Artist-Researchers' Response to the 2nd draft of the TCPS

Among the most fundamental rights possessed by Canadians is freedom of expression. It makes possible our liberty, our creativity and our democracy. It does this by protecting not only 'good' and popular expression, but also unpopular and even offensive expression. The right to freedom of expression rests on the conviction that the best route to truth, individual flourishing, and peaceful co-existence in a heterogeneous society in which people have divergent and conflicting beliefs, lies in the free flow of ideas and images. If we do not like an idea or image, we are free to argue against it or simply to turn away. But, absent some constitutionally adequate justification, we cannot forbid a person to express it.

Canadian Chief Justice Beverley McLachlin (2008)

Many scholars using arts-based practices are doing so with the intent of increasing a critical consciousness, promoting reflection, building empathetic connections, forming coalitions, challenging stereotypes, and fostering social action. Research conducted or presented via arts-based methods retains a transformational capacity because of the oppositional potential of art as a medium. Historically, various art genres have been used as sites of resistance to social oppression. […]

The resistive potential of art is now being harnessed by social researchers increasingly committed to dismantling stereotypes, accessing the voices of marginalized groups, and engaging in research that propels social change. […]

Knowledge constructed with arts-based practices needs to be assessed on its own terms. Researchers working with this new breed of methods have been developing criteria for trustworthiness, authenticity, and validity, and it is important that broader scientific standards are adapted according to their findings so that the research community is not forced to compare apples and oranges.

Method Meets Art: Arts-Based Research Practice

Patricia Leavy (2009)

Montréal, February 28, 2010

To the Esteemed Members of the Interagency Panel on Research Ethics,

As active members of the research-creation community, we are writing to voice our concerns about the Application of Article 2.6 as proposed in the revised draft of the 2nd edition of the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (TCPS). We believe that the current formulation of this application section will not serve the research-creation community well.

FOR A TCPS-CHAPTER SPECIFIC TO RESEARCH-CREATION

The fine arts already constitute a separate research paradigm within academia, mainly because of the fact that artist-researchers address their work not only to a university-based audience of peers. Rather, their work must also (and often decisively) prove its worth outside academia, in a highly competitive, local, national, and global professional art environment. This situation already creates the practical problem of artist-researchers having to navigate conflicting standards of excellence and relevance. Adding a new level of standards, this time in ethics, will further exacerbate this complicated situation.

We all agree that the best solution at this point would be to leave creative research practice entirely alone and let artists doing research-creation at universities apply existing and well-tested professional and contextual rules of ethical conduct in their specific fields.

We do acknowledge the good intentions of the PRE in the current TCPS draft when it says, in **Article 2.6:** "Creative practice activities in and of themselves do not require REB review." The **application text** to this article, however, *closes down that apparent openness* when it says: "Research that employs creative practice to obtain responses from human participants that will be analyzed to answer a research question, or to generate research questions is, however, subject to REB review."

The very fact that there are no indicators in this text to help decide which artistic research does answer a research question and which does not, combined with the fact that the term "research-creation" was introduced to make it clear that many artistic practices can indeed be equivalent to traditional scientific research is highly likely to *create a scenario where all creative practice at universities will be considered to be subject to REB review* – because it is seen as research-creation, or simply because of the institutional logic of universities that must, of course, assume that what their faculty and graduate students do is, by definition, research answering a research question.

The potential challenges that university-based artist-researchers will face with Application of Article 2.6 as it is currently worded are thus not addressed clearly within the proposed new TCPS. While the recent inclusion of a Qualitative Research chapter may conceivably assist in dealing with some of the issues likely to arise from this requirement, research-creation needs to be considered on its own terms, not to be evaluated according to TCPS guidelines for other kinds of research that have neither the pertinence nor the necessary precision to deal with the complicated socio-ethical issues in the context of artistic research practice.

Especially, the lack of a specific chapter delineating a national standard is of concern to us, for the following reasons:

- **DIFFERENT UNIVERSITIES, DIFFERENT STANDARDS?**

    At the moment, the majority of the more than 600 university ethics panels in Canada (including Concordia University's own REB) have very little experience with artistic practice; and even should ethics panels include people experienced in creative practice, the guidelines for the review itself as outlined in the revised 2nd Edition of the TCPS will not be adequate – and thus leaving art-based projects to be judged ethical or not by university REBs that may enact different standards for

researchers across the country – conceivably even researchers working on the same project in different universities.

- **DIFFERENT STANDARDS IN- AND OUTSIDE OF UNIVERSITIES?**

  A further concern is that despite the similarity in processes – and arguably even the similarity in outcomes – artists creating participatory, collaborative, and community artwork outside the university framework are not subject to any institutionalized government-imposed ethics review (even those with financial support from government programs such as the Canada Council for the Arts' Artists and Community Collaboration Fund).

  It could be argued that rather than being supportive of research-creation projects and helping to clarify matters, the new TCPS-draft actually complicates the problematics of institutionalizing ethics[1] by conflating art-based research-creation with qualitative research.[2] The current TCPS draft obliges REBs to assess an overwhelming majority of research-creation practices by using a policy developed for qualitative research methodologies. If so adopted, the TCPS would pose a real danger for the evolution of art in Canada, by establishing double standards for art practices within and outside the Academy. Such different sets of rules would constrain artistic practice and content inside and outside of universities to develop in very divergent directions over the next years and decades.

  By pointing to this discrepancy we are, however, ***not*** advocating for the imposition of institutionalized ethics reviews for non-university affiliated artists working in close alliance with community members or the general public; rather the opposite: we want to affirm that ***there is already a well-established set of principles and professional rules of conduct within the artistic community*** that are "grounded in thoughtful and ethical practice" (Kuppers 2007: 2).[3] This set of professional principles should and could serve as a guideline for a new TCPS-chapter on university-based artistic practice and research-creation.

  The inclusion of a distinct chapter on research-creation within the TCPS would thus provide a greater framework within which to raise awareness and assure an integrative ethics approach towards ethics of research-creation in Canada – and one that would be acceptable to *all* the players in the cultural/artistic field, not just to those who happen to be at universities.

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[1] See for example: Cannella & Lincoln 2007; Halse & Honey 2007; Marzano, 2007; Roth 2005.

[2] See for example: Conrad 2006; Finley 2003; Hertz 2002; Leavy 2009; Haseman 2006; Sinding, Gray & Nisker 2008.

[3] See also: Brydon-Miller & Greenwood 2006; Cahill, Sultana & Pain 2007; Denzin 2003; Denzin & Giardina 2007; Springgay 2008.

DANGER OF CENSORSHIP OF FREE ARTISTIC EXPRESSION

Another concern, not directly related to the inclusion or non-inclusion of a TCPS-chapter on research-creation, is the clear and present danger that ethics reviews can be used to effectively censor both academic and artistic freedom.

Freedom of artistic expression is a hard-won civil liberty proper to enlightened nation-states, and deeply anchored within their constitutions and common laws. It does not behoove policies on lower levels to directly or indirectly undermine these constitutional rights. Freedom of expression includes expression that may be offensive to sub-groups of society and even to the ruling moral and political consensus.

Within Canada and internationally, culture has often assumed the role of fostering controversy for the purposes of knowledge production and intra-societal discourse, and has thus frequently commented and taken on controversial subjects. Some of this art – created by the likes of Terence Koh, Santiago Sierra, Lawrence Paul Yuxweluptun, Augusto Boal, Tania Bruguera, Andres Serrano, Matthew Barney, Tracey Emin, Emily Jacir, Wayde Compton, Jay Lonewolf, David Cronenberg, Atom Egoyan, Anne Wheeler, Mauricio Kagel and Dead Prez – ranks amongst the most conspicuous and highly valued art in the contemporary world.[4]

Effective censorship of such art need not be overt and explicit, but could be structural. University-associated cultural workers could, for example, begin to shy away from practices or content requiring REB review, e.g. because the exigencies of the REB process preclude spontaneous interactions and improvisational practices, and/or because the content or the procedures of a research-creation project that are perfectly fine by professional ethics rules of conduct may be deemed un-ethical by an REB (especially if the guidelines are those for qualitative or quantitative research.) Such pre-emptive self-censorship could easily and quickly lead to a diminishing drive for artistic excellence and cultural relevance of university-based research-creation.

With such dangers inherent in what is often referred to as "the ethics creep" we could find ourselves facing effective censorship for university-based arts that would globally endanger art's impact and importance as social commentary and critique.

It should be underlined at this point that engagement with and participation in a work of art in the overwhelming majority of cases is entirely voluntary: audiences are usually required to actually buy a ticket or a subscription, and/or to tune in, or (e.g. the case of street art) to simply stop and watch – and participants usually receive a honorarium and/or non-monetary gratifications (fame etc.). This voluntary engagement already constitutes an act of consent that in the overwhelming majority of cases not only needs no additional formal consent – such a step would indeed often be detrimental to the intent, purpose and context of the artistic experience.

Attempting to regulate such voluntary and for the most part entirely risk-free interactions between autonomous citizens is paramount to adopting a paternalistic stance that would be in stark logical and moral conflict with the implicit objective of research ethics reviews, namely to ensure respectful interactions between all players in a research situation.

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[4] See for example: Harrison 2002.

CONCLUSION

We reiterate that, taking into account all the points outlined above, the best solution for the problem of ethics in research-creation would be to leave research employing creative practices entirely alone and let artists doing research-creation at universities apply existing professional and contextual rules of ethical conduct in their specific fields.

However, as this does not seem to be a realistic objective in the current political and institutional climate, research-creation needs at least to be considered on its own terms, not to be evaluated according to TCPS guidelines for other kinds of research that have neither the pertinence nor the necessary precision to deal with the complicated socio-ethical issues in the context of artistic research practice.

We therefore request the PRE to reconsider its omission of a chapter on research-creation practices and to start the process necessary to include such a chapter at the earliest possible date, preferably in consultation with the artistic community in- and outside of universities, and preferable already at the same time as the publication of the upcoming new TCPS.

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