

INTERDEPARTMENTAL  
MEMORANDUM

TO Mike Kew

FROM Wilson Duff

June 27 19 75

Here are a few comments on your paper INDIAN REGULATION OF SOCIAL RESEARCH, with which I am fully in agreement.

1. It might be helpful to have some guidelines on what activities are to be considered "social research" and therefore subject to regulation. With regard to subject matter, where do you draw the line? Is a dental survey or a nutritional survey social research? Census taking? Market surveys? Environmental impact studies? (etc.) Also, with regard to seriousness of purpose, when does it become "research"? A friend down the road learning Indian stories and buying baskets? Teachers on reserve schools (ahem, like Bob Tipton or Mary Lee Stearns?) Heather Robertson type journalists? Ron Rose type journalists? NFB film crews?

Maybe it should be confined to formal, professional research sponsored by academic, government, and other formal agencies. Then what about research sponsored by the Union of Chiefs or the district councils?

2. There is the familiar problem of who owns knowledge. Does the band have a right to tell band members who they may talk to? When does the band's right to "control research" overrule the individual's right to work with a researcher for wages? Della often makes the point that the band council may not really represent the people - the young chiefs may think differently from the old chiefs - is the management of the cultural heritage being added to the council's list of responsibilities? Who owns the information, council? families? individuals?

3. Another old familiar problem is that research usually promises a lot more than it delivers. All this talk of research must be raising some pretty unrealistic expectations. In archaeology, we are getting ourselves into a real bind by entering into agreements to hold all that excavated garbage in trust for bands until they may want it. As Della has said, the Indian people won't want the garbage back, they threw it away in the first place. The process, I think, raises unrealistic expectations for the Indians, and ties the institutions into long term knots.

4. The regulation and control can ~~only~~ apply to new fieldwork only. It cannot be made retroactive, nor can it be extended to include the literature and museum materials that are already in the public domain. This might cause problems for researchers entering into contracts, because it is hard to draw the line between what is new data and what is old. The band cannot control the researcher's use of data already in the public domain.

A related problem is: what would constitute libel, slander, misuse of data, misinterpretation of data?

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5. "Contract" is an uncomfortable concept. For one thing, a contract has two edges. Agreements signed must be agreements kept. Safeguards for the researcher have to be just as firm as the safeguards for the bands. For another thing, we still have the situation of a Masset contract that is unworkable in that no civil servant is permitted to sign it, and it looks as though no university person would be permitted by the university legal brains to sign it. Also, there are the valid questions about whether such a contract is in fact legal, and whether someone signing a contract he knows to be illegal is being ethical, and whether someone can in conscience sign away his common law rights.

6. People do not own the information about themselves. It is not only the citizens of South Africa who have the right to write histories of South Africa. Canada needs Canadian-written history textbooks, but it cannot prohibit writers from the United States or the Dominican Republic to enter the field. There is autobiography, but there is also biography.

I think it is healthy to have a pause in social research in order to force all concerned to re-examine their premises. But I wouldn't want the end result to be a restriction to projects of practical and immediate application to the people concerned.

Indian people and cultures today are people and cultures suffering change at the brutal hands of "the greater society". But as you point out, we all are. What happens to Indian children in the school system is an intensification of what happens to my children in the school system; and should be looked at. A lot of Indian sons are in jail, and so our sons are not in jail.

Anthropology, fact is, is a good kind of study. Anthropology studies various peoples and cultures. Indian peoples and cultures are various too. Indian situations are "good for thinking" as well as being "good to be concerned about". And all that.

7. And what is coming out in the wash, the most important product of this process, is not the research reports but the increased respect in which Indian people are being held, and the increased credence which is being given to their views.

Wilson: For information and comment, please.  
This is going out as is but I intend to revise it —  
that is if it looks like it'll prove useful.

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**INDIAN CONTROL AND REGULATION OF SOCIAL RESEARCH:**

A Report to the Fish Lake Research Advisory Committee  
and the Indians of the Williams Lake District.

by

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**Introduction:**

The need for control and regulation of social research has become widely apparent to Indians in recent years and various methods have been proposed and tried -- some good, some not so good. When the Research Advisory Committee last met at Fish Lake on February 13 and 14, 1975, there was some discussion of District Council's resolution of 1973, requiring prospective researchers to obtain its permission. There were also further proposals of rules which social researchers should be required to abide by. I volunteered to look into the feasibility of contracts as means of controlling research and to bring back additional information. This report is an attempt to review the whole subject, spelling out some of the alternatives and mechanisms available for control and proposing, for discussion only, a procedure which might be adopted by the Indians of the Williams Lake District.

Purpose of Regulating Social Research:

Until very recently anthropological, sociological and linguistic research among Indians in Canada, has been initiated mainly by researchers according to their own professional interests, or by government agencies concerned with administrative programmes of education, welfare, economic development and the like. Sometimes Indian interests and needs have been served by such research, although this has been mainly in a general sense, as for example by the Survey of the Contemporary Indians of Canada, conducted by Professor H.B. Hawthorn in 1964-65. At other times the relevance of research to Indians has been rather hard to discern, and seldom has there been much effort to present results and conclusions to Indians themselves directly and in ways they could use.

More and more, Indians are recognizing the need for information and are trying to reverse this trend by gaining influence over what social researchers do. Speaking as one of those researchers I believe this is proper and will in the long run prove beneficial for everyone.

The immediate goals of Indians, if I may be permitted to summarize comments, misgivings and complaints I've heard over the last few years, are as follows, Indians want:

- 1) to ensure that research will benefit Indians,
- 2) to ensure that research will not damage or offend Indians or threaten their interests,
- 3) to ensure that research attention is given to social problems which Indians experience,
- 4) to ensure that Indians are consulted and involved in

planning and doing research, I . . .

5) to ensure that Indians are given the results of research in a manner which enables them, as far as possible, to understand and use those results.

If these desires could become the principles which shape and condition research, then from the Indian's point of view, most kinds of unhappy and unproductive research experiences could be avoided. These desires are not impossible terms outside the reach of Indians or researchers. The relationship of Indian to researcher is a two way process and it is not out of place that Indians should want and require some specific things from the researcher. Researchers for their part want and get something out of the research they do, and this is never simply research data or some abstract entity like "scientific truth." If you ever hear a researcher say that he wants to carry out some project "for the sake of science" or "to learn the truth," and he leaves it at that -- be suspicious. Researchers usually get paid while they're doing research. It's their bread and butter. They often get University degrees as the result of what they do, and a degree gets them a better job and maybe more bread and butter. If their research is considered any good by professional colleagues, that is if it gets published in professional journals (seldom accessible to or readable by ordinary folks) that too raises the researcher's position in his profession. The point is that researchers personally benefit from what they do and stand to lose if they are not allowed to continue or undertake research in their chosen fields. Of course Indians may benefit by serving as paid informants and interpreters,

but this is really a minor thing. I believe they and any other subjects of social research should benefit in a broader sense. If they don't they should break off their relationship with the researcher. This is the ultimate protection and strength of the Indian's position.

I don't want to imply that researchers and Indians are at war with one another. By and large, thinking of my own field, anthropologists in Canada are very much concerned with the ethics of fieldwork and the social relevance of what they do. But because Indians in the past have not been vocal about research, because they are generally polite and have often not been interested in why, for example, crazy Whitemen were collecting Indian names of birds, or kinship terms, and the like, anthropologists have received few research requests and little advice from Indians in this regard. This is changing fast and some researchers may be startled by the strength and depth of your concern. There may be negative reactions from a few who think that when it comes to research the researcher always knows best what to do. But such people can be influenced and educated, and by and large, I believe researchers themselves and their professional associations are sympathetic to Indian needs.

#### Formal Controls Which Have Been Tried - Some Examples:

It has helped me, in considering the subject of research control, to review some cases or examples of ways which have already been tried. Here are a few cases which illustrate different types of control.

##### (1) Placing Indians on Existing Regulatory Boards:

Archaeological research in British Columbia is illegal without

permits issued by the province's Archaeological Sites Advisory Board (ASAB). This gives ASAB unusual powers of control over such research. They can set terms and conditions, refuse and revoke permits.

The Union of B.C. Indian Chiefs, at the insistence of their director, Bill Mussell, appointed two Indian representatives as members of the board, and they have been influential in making permits conditional on the archaeologist informing Indian bands in the vicinity of the research, getting their permission if this is advisable, insisting that burials be respectfully treated and that artifacts be held in trust by researchers for the bands, ultimately to be available for exhibit locally by the bands. In some cases archaeologists have been instructed to hire local band members as research assistants.

Regulatory boards such as ASAB don't exist for linguistic, anthropological or sociological work, nor is it likely they will, but archaeological research is rather firmly regulated and Indians have direct access to the controlling board. Should any individual Indians or bands have complaints about what archaeologists have done or propose to do, or should they want any specific conditions to be applied to archaeological work in their area, the Union's representatives on ASAB can be used to introduce the appropriate conditions. Indian Board members can hold up the issuance of permits.

(2) Requiring Researchers to sign Agreements and Contracts:

For many years most anthropologists, at least those worth their salt, have made it a practice to inform Indian bands or communities of their desire to undertake research and to seek in some degree or another, the formal permission of the people concerned. This has often boiled

down to obtaining the verbal approval from a chief or band council. To my knowledge refusal has been rarely encountered in B.C.

This has recently been taken a step further in some places to involve drawing up and signing a mutually agreed contract between researcher and Indian subjects. One of the first of these was signed by Marjorie Mitchell, a UBC student working on research for her PhD, and the Tsartlip band council in Saanich. It was used subsequently as a model by two other Bands, first the Hesquiat, on the West Coast of Vancouver Island and then the Masset band of the Queen Charlottes. They have devised standard application forms and contracts which prospective researchers are required to fill out and sign. Permission must be obtained and the contract signed before research proceeds.

These are the most direct and forceful devices of control so far attempted. The application form of the Masset band requires researchers to describe their intended project, how it will be funded, who is the sponsor, how band members will be involved, how the researcher intends to use the results and in what ways may the band members benefit. Should this be acceptable to the band, they may then move to signing a contract. In this the band council formally grants permission for the researcher to be on band land and to proceed with the research. The researcher in turn agrees that all artifacts and exposed film will become the property of the band, that (s)he will not publish, remove or use, or permit to be published, removed or used, any results of the research without the written consent of the band council. Additionally the researcher is required to admit financial responsibility for unspecified and undetermined damages which may result from any violations of the terms of the contract.



Whether such contracts will do the job is somewhat uncertain. Objections have been made by some researchers on the grounds that rights of publication might be curtailed and so negate or limit the scientific purpose of the work. Also the necessary confidentiality of some kinds of interviews might be interfered with if boards have the right of access to all information. Another objection is that such contracts may turn out to be invalid in the courts because the individual researcher is required to limit freedoms which are guaranteed by common law, for example the right to speak and write about what you see and hear. If this is so, to sign the contracts knowing or believing them to be unenforceable, would be an act of bad faith and a deception of the worst kind -- the sort of thing that must inevitably destroy any relationship between researcher and subject.

It is my personal belief that such contracts as these are workable or can be made so with minor changes mutually agreed to by both parties. The answer will come in trying them out. If they set and maintain a climate of feeling where work can be done, and lead to studies which benefit both sides, and everyone feels good about the undertaking, they will be worth-while. If they increase initial suspicions or hostilities, or if they lead to continual legalistic wrangling, they will be counterproductive. If they are so extreme in their terms as to make it impossible for researchers to sign them, then this will bring effective, legitimate and beneficial research to a halt.

(3) Exerting Controls Through Professional Associations, and Sponsoring and Funding Agencies:

In a resolution passed at its general meeting in February, 1975,

the Inuit Tapirisat (Eskimo brotherhood) of Canada took an interesting and imaginative step which will likely be followed by other native groups. They resolved to try to ensure that local and regional Inuit groups have a say in future anthropological and sociological research among their people. This is difficult to do, of course, because the local villages and camps are many and widespread, often isolated and out of contact with the Brotherhood, and most importantly their people often unaware of their rights as citizens to refuse to cooperate with researchers. It is extremely difficult for regional or national native organizations to protect the rights of its constituent members.

But the second part of the Inuit resolution came at the problem in a new and imaginative way. It resolved that the Inuit Tapirisat request governments "to withhold funding for research until the Inuit groups directly concerned with the research approve the project." In other words they said: "We don't want you to pay for or sponsor any research which we haven't approved."

Now, of course, this is only a request and has no hard teeth in it, but government funding agencies and even university departments which sponsor students and faculty researchers, cannot afford to ignore such requests -- especially, and this is important, if such requests are backed up by continued surveillance and concern from the people. If Indians are concerned about the proper behaviour of researchers and make it their business to let sponsoring agencies know about it those agencies will listen. If the Williams Lake District Council said to university departments in B.C. "Don't allow any of your students to do research among our people unless it's been approved by the people," those

departments would listen. You could give them some very bad publicity if they didn't. They don't want that because they too are dependent on public funding.

Other groups which are attuned to public issues and specifically to the ethics or proper behaviour of social researchers, are professional associations. The Canadian Sociology and Anthropology Association (CSAA) is now in the process of drafting a code of ethics for its members. This will include a section stipulating that voluntary consent of research subjects must be obtained before they are studied. The CSAA is concerned with maintenance of proper standards by its members and is a group which can be directly appealed to if cases arise where you feel researchers have been lax or improper in their research activities.

There are many other associations of a similar nature whose attention could also be directed towards ethical issues, for example, British Columbia and Canadian Museums Associations, Linguistics Associations, and the like.

Appealing to funding agencies for cooperation won't do the whole job, because it cannot affect all agencies to the same degree and some research isn't sponsored by agencies you could know of beforehand. Additionally, screening applications to do research enables you only to refuse the obviously bad projects. It doesn't help you get rid of those which may look fine at first and then turn out to be something else. Nevertheless this is an approach which could be effectively used by the District Council and also by the Union of B.C. Indian Chiefs and the National Indian Brotherhood.

(4) Sponsoring Your Own Research:

Another way to see to it that the right kind of research gets done in the right way, is to get into the game yourself. The Union of B.C. Indian Chiefs has indeed done this very thing by setting up its Land Claims Research Office in Victoria, hiring researchers and assigning them to critical tasks. This has had extremely beneficial consequences, particularly in regard to the issue of cut-off lands for which a number of excellent reports were produced -- reports of a calibre that will stand up before courts and scholars.

The Nazko and Kluskus bands also utilized the direct approach in the summer of 1974 when they hired a staff to prepare a report on the consequences and alternatives for forestry development in their territory.

Your own Fish Lake Centre has a small research division too, under John Rathjen's direction, and is attempting to promote activities which will provide useable data for cultural education programmes.

One of the drawbacks of sponsoring research is the cost involved. Most bands just cannot afford to think of funding research. But something nearly the same can be tried -- that is, to invite researchers to undertake specified projects. This will probably become more and more feasible as numbers of prospective researchers increase and you, the Indians, become more and more restrictive about what you will allow them to do.

Fundamental Rights and Controls:

Over and above any formal devices or procedures such as we have already discussed there are some simple, fundamental controls which people

who are subjects of social research can exercise to protect their own interests. These are, first of all, the rights of private property. Indians like other citizens can refuse entry of researchers to their homes and reserves and ask them to leave at any time. Secondly, laws of libel and slander apply to the content of sociological or anthropological writing as to anything else. In my view Indians can and should exercise such rights and make use of such laws, more than they do. I think it is correct to make the general statement about contemporary Indian practices of politeness in the Williams Lake Area, that Indians do not enforce their property rights whether to land or homes, as strictly as do Whites. Indian doors and gates are more often open to others, in keeping with the wider, more inclusive sense of community which prevails among Indians. This is a distinctive aspect of contemporary Indian culture offering to Indians a positive social value which the larger community of predominantly White people does not enjoy to the same degree. Outsiders sometimes take unfair advantage of this, and it is sadly ironic that one must advise people to change their style of dealing with others in order to protect their own society.

The final and most effective control which is open to everyone, is simply to withhold cooperation. Don't answer any questions, don't even say anything, and the pushiest, most bothersome researcher will soon give up in embarrassment or despair and go away.

#### Limits of Local Authority:

The Indian Act gives band chiefs and councillors some small degree of authority to make decisions and to act on behalf of their people.

The section dealing with trespassers can become a most helpful device for limiting the activities of outsiders, including social researchers. But the authority of chiefs and councillors cannot go very far. For example, a chief cannot completely determine who his band members talk to, or choose to invite to their homes, and if an individual Indian wants to tell legends and stories to an anthropologist there's very little the chief can do to stop him. Similarly there is little legal basis for the District Council to enact controls upon relationships of outsiders to individual bands within the district. Furthermore it is generally contrary again to an aspect of contemporary Indian culture for councils and other elected bodies to assume authority and implement legislation for their people. Put bluntly, Indians don't like to tell other people what they can or cannot do.

This was experienced by the Williams Lake District Council a few months back in regard to an application to do research. The District Council had passed a resolution in the fall of 1973, to the effect that social or anthropological research in the district would not be permitted unless it had District Council's permission. Last November, when an application to do research on some of the Chilcotin reserves came before the council, it did not make a decision, not because the research looked bad, but because members of the council were unwilling to decide on an issue which affected members of other bands. It was as if District Council took the view: "it's none of our business."

In pointing out the limits of the bands' or District Council's ability to make laws and enforce them, I am not suggesting that they have no place in establishing and maintaining controls upon social research. I would argue quite the reverse. These are the proper concerns of Indian

leaders and elected bodies. It is from these that leadership and assistance should come. At the present stage of organization, however, it is unrealistic for District Council to do the law-making and enforcing. Their role should be that of advising bands what they might do, and even what the council thinks they should do.

The bands, on the other hand, are in a position to take much more direct action and to pass resolutions governing the conditions of research activity on their reserves, although there are limits to their law making ability as well.

Recommendations:

In view of the different degrees of authority and powers of Band councils and District Councils, I have distinguished between their roles and make two sets of recommendations.

In summary, it is my view that District Council should decide on policy to recommend to its bands, and it should communicate to outside agencies its intention to discourage research which is not approved by Indians and is not in their interests. The individual bands should determine whether or not permission be granted and make some form of agreement, perhaps a contract, with each researcher.

Here are some specific recommendations for your consideration and discussion:

Recommended that District Council:

1. Endorse the principle that no research should be allowed without permission of the band councils concerned,

2. Advise all bands in the district not to allow research activity which has not been screened and approved by the band,
3. Make technical assistance of the Fish Lake Centre available to bands needing advice on research proposals,
4. Inform all government agencies, universities, professional associations, funding agencies, etc., that the District Council will oppose and discourage research projects which are not approved by the Band councils in question,
5. Ask all government agencies, universities, professional associations and funding agencies, etc. not to grant funds for research, or to sponsor in any way the activities of researchers who do not have permission from the bands with which they intend to do their research,
6. Urge and advise bands which grant permission for research, to set the following as minimum conditions:
  - a) that the researcher will deposit with the band council and with the Fish Lake Cultural Centre copies of any research reports, technical papers, and other publications resulting from the research,
  - b) that before permission is granted, the researcher demonstrate or describe to the



band council the benefit that will accrue to the members both singly and collectively, (b) whether immediate or long range, (c) that the researcher agree to provide any and all Indian words recorded in his written material to be deposited with the band and Fish Lake Centre, in the alphabet endorsed and used by the Centre and the band.

Recommended for each Band:

1. That band officers and members refuse to permit research on their reserves and on their bands business affairs, which has not been approved in writing by the band council,
2. That band councils ask prospective researchers to make written application to do research, showing in this application, the purpose, subject, sponsor, funding agency, benefit to band, involvement of band members, nature of information sought, etc.,
3. That band councils examine these applications, with technical advice from the Fish Lake Centre or other sources, as needed, and if application is approved, grant permission to researchers who agree to observe these conditions:
  - a) That the researcher will deposit with the band council and the Fish Lake Cultural Centre, copies of research reports, technical papers and other publications resulting from

the research,

b) That the researcher will deposit copies of field notes, tape recordings and photographs with the Fish Lake Cultural Centre, (The researcher should be allowed to designate portions of notes, etc., as private and not open to the public, and such stipulations should be upheld by the Centre. This may be necessary to protect the privacy of

individual band members.)

c) That the researcher agree to provide any and all Indian words recorded in his written

material to be deposited with the band and

Fish Lake Centre, in the alphabet endorsed

and used by the band and the Centre,

d) That the researcher agree to any other special condition which may be required by the band.

4. That band councillors keep informed of the progress of any research and see to it that the terms of agreement are observed. Should events or conditions arise which are a threat to the interests of the band, council should bring this to the attention of the researcher, and if it cannot be remedied require him to discontinue his work.

Centre, copies of research reports, technical papers and other publications resulting from