

# ON-SCREEN PROTOCOLS & PATHWAYS:

A Media Production Guide to Working with  
First Nations, Métis and Inuit Communities,  
Cultures, Concepts and Stories



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PREPARED FOR

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Original. Indigenous.

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This document also incorporates and integrates the initial research conducted for imagineNATIVE by Maria De Rosa and Marilyn Burgess from Communications MDR: “Developing a Media Production Guide to Working with First Nations, Métis and Inuit Communities in Canada: A Background Report.”

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This guide is dedicated in loving memory of Greg Younging, a member of the Indigenous Advisory Committee who had a profound commitment to and impact on the community.



Marcia Nickerson

The document has been years in the making and on behalf of imagineNATIVE I sincerely thank everyone that brought this report to fruition. In our work at imagineNATIVE we have witnessed first-hand the importance, impact, and vitality of Indigenous narrative sovereignty and the urgent need to support Indigenous screen storytellers.

On-Screen Protocols & Pathways was inspired by the remarkable Indigenous artists, leaders, and community members who have persevered in the screen industry for decades, and who have cleared the paths that have brought us to this point in time. It was also inspired by the work of Terri Janke who developed Screen Australia's protocols document.

It is my deepest hope that this framework – in concert with the progressions that are being undertaken to support Indigenous screen storytellers – is a step towards ensuring a vital Indigenous screen sector for generations to come.

Our initial vision was to create a positive, forward-thinking framework that would guide productions and funders to ensure Indigenous property was protected and to ensure that negative on-screen stereotypes were not perpetuated. Thanks to the brilliance of the National Advisory and the Indigenous screen storytellers that participated in the consultations – along with Marcia Nickerson – this document has become so much more.



Jason Ryle  
Executive Director  
imagineNATIVE

## HOW TO USE THIS DOCUMENT

Because of the unique cultural, social and historical context of the burgeoning Indigenous Screen industry, several different audiences were identified for the purpose of this document. It attempts to speak not only to Indigenous screen content creators, but also to larger industry stakeholders, non-Indigenous content creators, and Indigenous communities that may be involved in production.

### Section One: Using Protocols

This section is geared towards sharing the best practices developed by Indigenous screen storytellers to provide guidelines for working with Indigenous content, concepts and communities. Ultimately this document is about showing the production community how to work with Indigenous communities in a positive, mutually beneficial, and practical way.

### Section Two: Implementing Protocols

This section provides a context and illustrates some of the ways funding bodies, broadcasters and industry partners can assist in the promotion and implementation of the protocols. The protocols are only effective if the standards reflected therein are adopted by the larger industry, in a manner that affects policy and funding decisions.

### Appendix A: Context for Screen Protocols in Canada

This section serves to educate non-Indigenous production companies and gatekeepers about Indigenous worldviews with regard to cultural genocide, cultural appropriation and cultural property rights.

Understanding this history of colonization and the legal underpinnings of narrative sovereignty is key to understanding the worldview of Indigenous communities and storytellers. It also outlines relationship principles that are indicative of Indigenous communities' expectations around relationships moving forward.

### Appendix B: Resources for Communities

This section is meant to serve Indigenous communities that are faced with incoming productions, providing basic information on production, questions to ask about the impacts of production and sample materials they can adopt into the development of their own protocols.

### Moving Forward

It is important to acknowledge that these protocols are not meant to be rigid, and that over time and practice will change. The protocols will be housed within the Indigenous Screen Office and are considered a "living document" that will be reviewed, updated and edited in consultation with stakeholders, on an ongoing basis.

## PURPOSE OF ON SCREEN PROTOCOLS

There are three distinct Indigenous peoples in Canada: Inuit, Métis, and First Nations; with 50-odd individual nations, well over 600 First Nations reserves, four Inuit regions, eight constitutionally protected Métis settlements, and, according to Statistics Canada, 60 Indigenous languages. As such there are as many varying nation, territorial, and community protocols. These include cultural and territorial protocols, ways of giving and receiving traditional knowledge, practices of gifting, and political protocols with established governments (whether they be Indian Act bands, self-governing entities, or national and provincial organizations such as the Métis Nation of Ontario). Examples of existing Indigenous protocols in Canada are numerous and specific to nations, communities, and cultures. In the absence of legislation protecting traditional and cultural knowledge, protocols serve to provide guidelines of practice. Protocols have been developed in Indigenous nations, both nationally and internationally, for the purposes of academic research, sharing of information and data, engaging with communities, as well as filming Indigenous communities or Indigenous content. It is impossible to cite them all, and therefore incumbent upon the content creator to determine where protocols and jurisdiction over stories and content vest. As a result, only the pathways to facilitate the navigation of these protocols are found within this document.



*“Recognize that protocol is not a fixed thing; it is a fluid and changing thing and will vary from community to community, from person to person; it is not a set of rules you can follow.”*  
— Lindsay McIntyre, Filmmaker

The *On-Screen Protocols & Pathways: A Media Production Guide to Working with First Nations, Métis and Inuit Communities, Cultures, Concepts and Stories* is for use by screen-storytellers and production companies wishing to feature First Nations, Métis or Inuit people, content or concepts (traditional or contemporary cultures, knowledge or intellectual property) in their films, television programs and digital media content.

The intent in developing this media production guide is to:

- provide decision-making guidelines for communities, content creators, funding bodies, and industry partners;
- share best practices developed by Indigenous screen storytellers;
- educate screen content creators, production companies and gatekeepers about Indigenous worldviews, cultural and property rights, and the protection of Indigenous cultural practices; and finally,
- to encourage informed, respectful dialogue between communities, content creators, and production companies.



Protocols provide appropriate and ethical ways of working with Indigenous cultural material, and interacting with Indigenous people and their communities. The protocols that follow stem from best practices in Canada and are meant to serve as both guidelines and an initial collection of Indigenous industry standards developed by Indigenous peoples. And while protocols themselves may differ, the pathways that Indigenous screen storytellers use to navigate these protocols have overwhelming similarities.

The best practices and stories within are shared with the spirit and intent with which they were given. According to respondents, the idea of these protocols is intimately linked with the decolonization of Indigenous practices and addressing the western structures that are imposed on Indigenous screen-storytellers. Decolonizing practices includes developing production models that “allow us to be more Indigenous”, in a way that more adequately reflects cultures and creative practices, while allowing proprietary matters to flourish. These protocols are not intended to create barriers for Indigenous creators by providing an exacting framework; however, the intent is to commence the development of Indigenous industry standards within the context of existing barriers.

## NARRATIVE SOVEREIGNTY



*“When I talk about narrative sovereignty, what I’m really talking about is the ability of the nations to have some measure of control over the stories that are told about themselves... Throughout the entire history of filmmaking, the overwhelming majority of stories told about Indigenous peoples – both fictional and documentaries – have been told by non-Indigenous people.”*

— Jesse Wenté,  
Director, Indigenous Screen Office

After what amounts to over a hundred years of cultural genocide, cultural repression, cultural appropriation, and misrepresentation, Indigenous screen creators in Canada strive for “narrative sovereignty”. With the Canadian government adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which provides an ethical and human rights framework for Indigenous rights, it has set the stage for ongoing discussions of renewed nation-to-nation relationships.

A key first step in resetting the relationship between the Crown and Indigenous peoples involves taking stock of and recognizing the legacy of colonial policies such as the Indian Act and the Residential School program. These policies have eroded many Indigenous nations’ governance institutions and practices, left a legacy of intergenerational trauma within Indigenous communities, and threatened the survival of Indigenous languages and cultures - the basis of Indigenous identity and nationhood... many Indigenous leaders echoed former Akwesasne Grand Chief Mike Mitchell’s sentiments: “My language, my song, my spiritual beliefs; that is my sovereignty, that’s my identity.”<sup>39</sup>

As is currently reflected in French and English Canada, Indigenous creators strive to assert their own sovereignty as one of the three founding nations. Culture is a fundamental underpinning of sovereignty and identity, and for the purpose of these protocols, recognition of Indigenous ownership and control over their rights to their intellectual and cultural property and heritage is paramount. Sovereign nations must have control over own stories. To assure sovereign notions and support truly Indigenous projects, Indigenous peoples must:

- have decision making control over the funding and the creative sides of production;
- protect Cultural Property Rights and interests; and
- ensure appropriate consents, access to, and control of Cultural property.

Film, television, and other screen media are practices in cultural re-generation, both in depicting the modern reflections of changing cultures and in preserving traditional cultural practices and stories. Making Indigenous screen-based media is about more than creating a unique cultural (or niche) product - it is part of the process of cultural expression and revitalization. Indigenous screen storytellers seek to honour their people's journey and find a balance between historical and ongoing injustices while looking forward to the future and sharing the story of the strength of their people.

This is one of the reasons that the concept of narrative sovereignty is so important. It involves the creation of new narratives that are often predicated on stories depicting resilience - "in a good way", "with a good heart", and "with a good mind". Narrative sovereignty acknowledges these traditional teachings and applies them to film practice.

While the vision of narrative sovereignty is aspirational at this point, efforts to support the development of the Indigenous screen sector and build the necessary capacity are underway and remain a focal point for screen content creators.

## THIS IS NOT A MAP



*“We are becoming another resource. They have taken timber and gold and fish and now they want our stories. They are continuing to take our resources and profit from it.”*

— Darlene Naponse, Filmmaker

There was resounding consensus from participants during the engagement process that these protocols should be considered a living document and not serve as a static checklist on how to make productions with Indigenous content. Rather, these protocols are intended to inform policies, processes, and practices, but they are not a map for non-Indigenous practitioners to access Indigenous stories. In this spirit, the following checklist has been developed for non-Indigenous practitioners:

- If it is not representative of your culture or background;
- If it has anything to do with Indigenous history or culture;
- If you have to question your belongingness to a group or community;
- If you are uncertain your good intentions will deliver balance and respect; or
- If you are unsure this is a story you should be telling; then...

### **Don't Do It.**



*“If you really need to have us in your story, tell the truth of your history, as difficult as that may be. Find the intersections of truth in the history of settlers. There are as many Indigenous stories as there are settler stories. You cannot tell a story truthfully if you do not come from this place.”*

— Catherine Martin, Filmmaker and Educator

The non-Indigenous production community should consider the ways in which they can reinforce Indigenous narrative sovereignty and what roles they can play to promote Indigenous cultural industries, rather than reinvent Indigenous stories in their own image.

## SCREEN-BASED PROTOCOLS PRINCIPLES

Screen storytellers described the following principles as fundamental to the execution of protocols.



## Respect



*“Respect is often born of transparency and open communication.”*  
— Kevin Lee Burton, Filmmaker

The Indigenous teaching of respect is a traditional one that carries forward in all aspects of content creation and includes:

- respect for Indigenous peoples, their lands, their customary laws and traditions, is an overarching principle raised by all of those consulted;
- respect for the preservation and protection of Indigenous knowledge and cultures is a key driving force for much Indigenous content creation;
- respect is also about building relationships – which is a long process – and the responsibilities that go along with those relationships.

## Responsibility



*“When you come from a community that has been so, not been under represented but MIS-represented for a century, you feel a responsibility to tell stories that matter and that are not just entertaining. We carry a lot of responsibility whether it is self-imposed or community imposed.”*  
— Alethea Arnaqu-Baril, Filmmaker

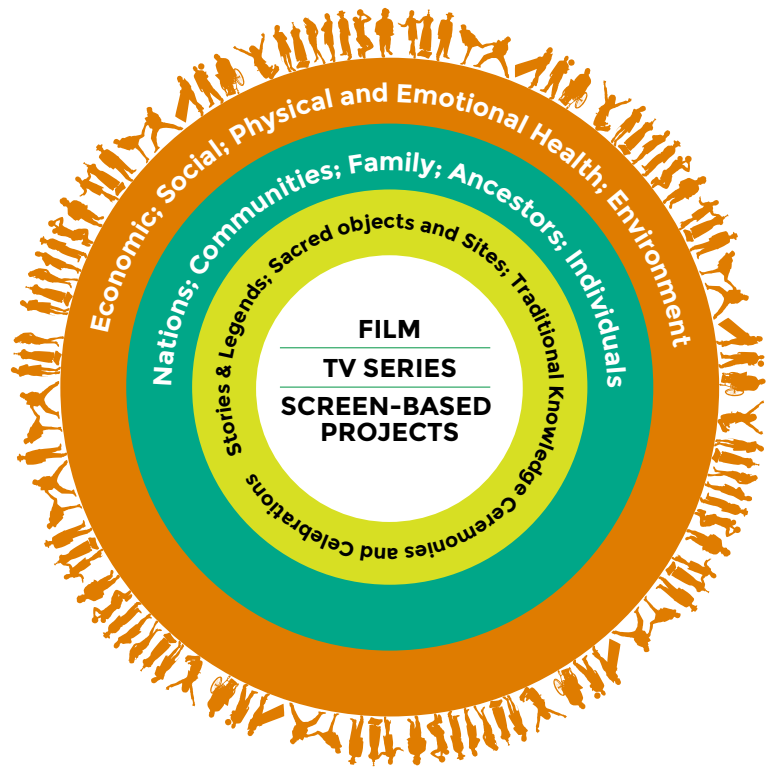
It is also clear that Indigenous screen storytellers recognize an inherent responsibility and accountability to community. Often times the first priority of Indigenous creators is community based: How will this affect community and the future generations? And often with that comes the responsibility to respect the sacred and prevent voyeurism. It was emphasized that responsibility to community exists not only on-location, but before, during and after the film.



*“Let me repeat that – the first and foremost responsibility is to community.”*  
— Shane Belcourt, Filmmaker

Thus there is a fundamental mental shift required to shift thinking from ‘individual creative freedom/license’ to “community responsibility.” As one respondent explained: Visualize a circle with community on the outside, and the film on the inside. That is the difference between creative responsibility and responsibility to community.

## Circle of Responsibility



*“Maybe we aren’t making movies because we live in the most beautiful, untouched land in North America. Maybe it isn’t even our rich culture with scary and nuanced myths combined with a deep history of oral storytelling. Maybe it’s our responsibility that drives us to tell stories.”*  
— Nyla Innuksuk, Filmmaker

## Reciprocity

One component of “reconciliation” is economic reconciliation. One way to achieve this is through reciprocity. Reciprocity is a corner stone in the creation of partnerships. Reciprocal relationships include aspects such as fair compensation, the sharing of benefits, informed consent, and community empowerment.

These Protocols elaborate on reciprocity agreements, demonstrating some tangible ways with which communities can be empowered and build capacity in ways that will have lasting social and economic benefits. Capacity building is about more than training, it is also about the economy of innovation and excellence which is achieved through fostering talent, validating social and cultural values that support creativity and innovation, and development of structures and processes to support this innovation.

## Consent



*“Ultimately you need to understand where the permissions come from, and this may be different for every community.”*  
 — Darlene Naponse, Filmmaker

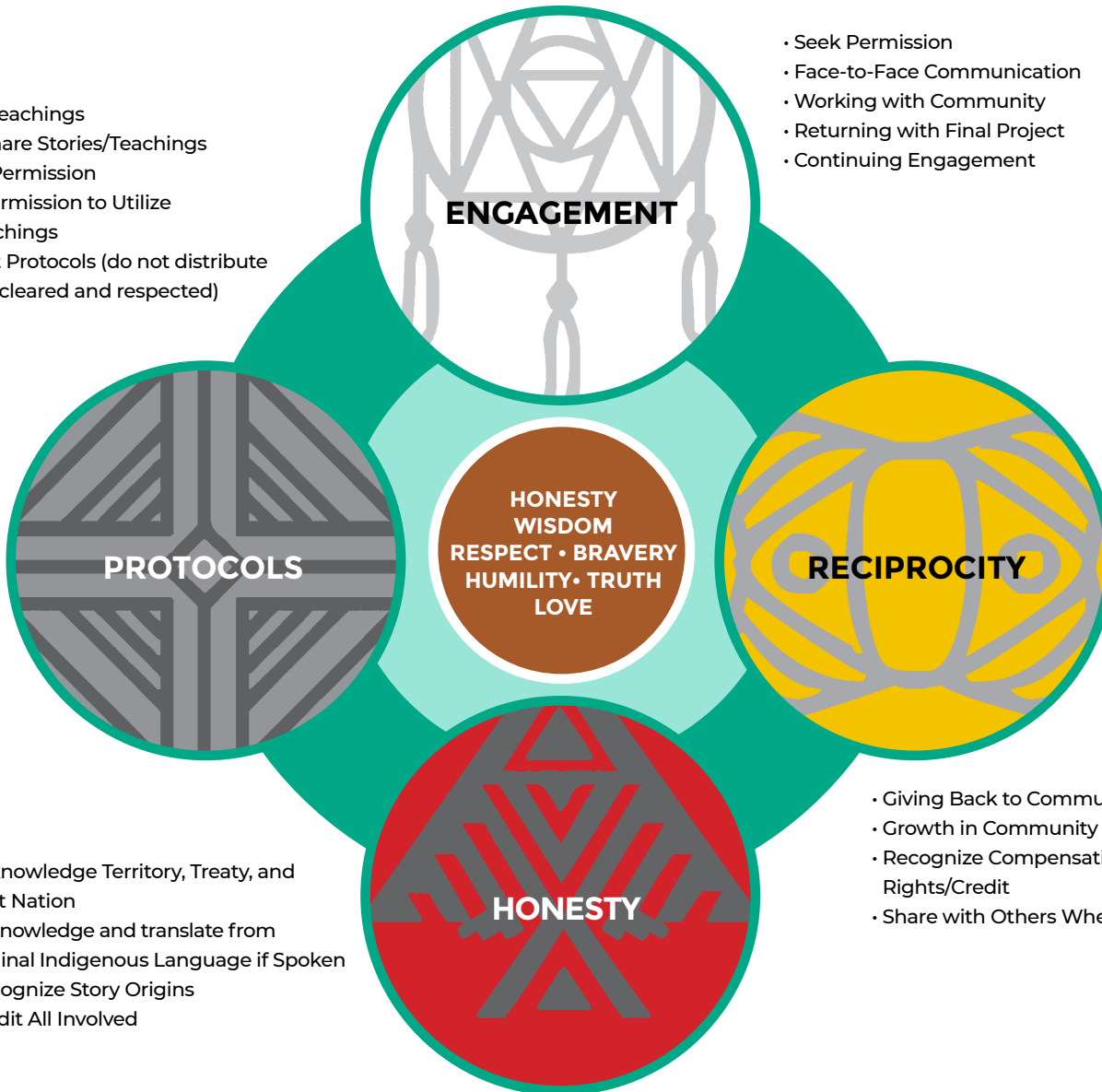
Determining consent and ownership of oral traditions and stories that are gifted to you is often challenging. For example, sometimes you are given permission to share the story but the intellectual property rights still vest with the original keeper of the story, whether that is a family, a community, or a nation. Do people have the right to tell you that story? Where are all the places that consent lies? Who controls or has the rights to the story and who has the authority to give you permission? Determining consent is a both a process of acknowledging and respecting.

First and foremost, consent is a first principle in validating nations and people who are trying to protect their heritage. You will note throughout this document that consent and permissions vest in a number of places and vary depending on the nature of the story being told. Achieving consent, particularly for collectively held stories, requires consultation both at the beginning of the story and throughout the process.

Consent also means that filmmakers may be told no – maybe you cannot adapt it in this way, maybe you are not the right person to tell the story, maybe the story can not be changed, maybe you cannot shoot where you want to shoot – you may not get permission to do what you want to do.

## Overview of Indigenous Storytelling Consent Process

- Respect Teachings
- Do Not Share Stories/Teachings Without Permission
- Ask for Permission to Utilize Story/Teachings
- Ask about Protocols (do not distribute until all is cleared and respected)



## 1. WORKING ON INDIGENOUS LANDS





## a. Cultural and Territorial Protocols



*“One cannot apply one protocol across the country because each community has their own protocols and approach. Nations do things differently, but there are things we have in common.”*

— Duane Gastant Aucoin, Filmmaker

Cultural protocols vary across the country – sharing circle, prayers, feasts, use of tobacco, use of talking sticks – these are all dependent on territory and nation. Further, even similar ceremonies such as sweats will all have different protocols in each different region. Further still, based on the story that you are telling, the protocols will change. Consequently, it is important for content creators to determine and follow regional and community protocols.

Indigenous peoples in Canada remain the custodians of traditional territories and ancestral lands and cultural protocols also apply to accommodating territorial recognition where possible. Cultural protocols often situate Indigenous languages and peoples by acknowledging their relationship to the land. Again, appropriate protocols are primarily determined by going into each region and working directly with the community themselves. The same must be said if you are in an urban area. How do you determine what Indigenous territory you are on? For example, are you under a treaty? Are you in the traditional territory of more than one nation?



*“Again, if we’ve trying to decolonize the documentary then we can bring in our own forms of how we talk and how we do business and how we deal with one another, and one of the ways we deal with one another is that we honour one another, and that often comes through song. Whenever I’ve been to meetings or a ceremony or a cultural gathering there’s usually a welcoming song or honouring song for the people who are participating. That honouring song honours the people who are sharing their stories, and honours the people who have arrived to hear the stories. That honour song hopefully creates a respectful space to start the film off so that the people who are there will listen and open their minds to the stories they are about to hear. It’s also my way of honouring the people who have shared their stories with me to make the film. I’m trying to bring those ways of how we do business into the practice of filmmaking.”*

— Loretta Todd, Filmmaker

## b. Recognizing Indigenous Jurisdiction

Recognizing Indigenous jurisdiction on Indigenous territory is achieved by acknowledging that Indigenous people are the original caretakers of the land by respecting and working with nation and administration protocols. Quite simply, this is Indigenous land – you would not enter someone’s land without permission.

Initial contact should be made through government office, whether that is the Inuit hamlet, Métis Settlement, or Chief and Council of a Band Office. There are also Land Management Councils that may have jurisdiction over a given area.

When working on Indigenous lands, it may be necessary to build some community literacy around their readiness, capacity and rights regarding a production. Writing up early agreements and preparing the community for what will happen with huge film crews may facilitate this. Elements include:

- the disrupting daily life (road closures);
- need for permissions to go to certain places in the community;
- costs to shoot on reserve; or
- bonds with the community in case of damage.

First Nations follow cultural protocols, ceremonies and ancestral laws to guide relationships and interactions in a good way. For example, when people enter another Nation’s territory, there are protocols to guide that interaction. On the coast, when people arrive by canoe, a speaker introduces where they are from, why they are there, and formally asks permission to come ashore. Those on shore introduce themselves, their Nation or clan, and formally welcome them to shore. This may be followed by business transactions which include feasting, oral documentation of relationships and affirming change that benefits the communities. Similar to the function of policies and guidelines, what was discussed and agreed upon became law.<sup>6</sup>

## 2. WORKING WITH INDIGENOUS CONTENT

### a. Nothing about us without us.



*“If you want it to have relevance and resonance – co-create and collaborate. Do not make it a consultation – share power, share influence, share the wealth, of power, of control – do not be so possessive of it.”*

— Kevin Lee Burton, Filmmaker



*“In Inuit society traditional leadership is a fluid thing and is situation specific. Where someone has more experience and knowledge they, take the lead. What are we doing? Who has the most knowledge? What is the role? And who takes the lead? It shifts with the situation. In any field you need to be constantly assessing what you are doing and who should be leading – you are not always the one that should be listened to in every situation. When someone knows better than you, you have the humility to be hands off and let someone else anticipate all of the moves. Trust those who know more than you.”*

— Alethea Arnaquq-Baril, Filmmaker

## b. Valuing of Indigenous Cultural and Intellectual Property

From an Indigenous perspective, story and land and language are fundamentally interconnected. There is a science to story and place that revolves around a relationship to territory and language, steeped in oral traditions that often stem from a relationship with the land. Oral traditions have allowed stories and legends to survive for hundreds of years, and thus how these stories are told is integral to the perpetuation of Indigenous cultures.

Teachings around cultural transmission are often very specific regarding the origin of story and how it is told. For example, storytellers often begin by acknowledging: who they are, where they were born, where they learned the story, from who, and where that person was born, and how the story has been influenced. Traditional storytellers are very specific about how and to whom teachings may be told, and try to only tell the one version as they have learned word for word. This is how Indigenous stories have survived, barely changed across many regions. The stories, legends and songs are maintained by the way that they are told.

Indigenous screen storytellers and content creators are also in the unique situation of protecting language, following cultural protocols, and translating content from oral traditions to a more literal environment and permanent medium. As a result, mainstream industry-standard practices can be at odds with Indigenous values and right to cultural expression. Indigenous writers and directors are often asked, as part of the mainstream industry-standard practice, to sign away their story rights to access funding. Indigenous storytellers have expressed concern that the mainstream industry does not understand their point of view - many of their stories belong to others within their communities or to nations collectively - which can hamper potential working relationships before they begin.<sup>7</sup> Industry standards and structures are heavily ingrained – such as the 3-point narrative, or particular aesthetics

– and are often contrary to Indigenous storytelling; therefore not conducive to the Indigenous worldview. Respect for cultural heritage is a fundamental principle for Indigenous filmmaking protocols. Content creators should recognize and respect Indigenous people's right to own and control their culture. Indigenous cultural and intellectual property rights, explained further in Appendix A, refer to maintaining Indigenous cultural heritage by ensuring keeping the cultural integrity of an event, story or artwork. Integrity refers to the treatment given to the work or film. Screen-Storytellers should also respect the right of Indigenous people to keep secret and sacred their cultural sites, beliefs, knowledge and images.

As appropriate, Indigenous people should be consulted on, compensated, and their consent obtained, for the use of their traditional or contemporary knowledge and cultures. The privacy of sacred, secret or sensitive knowledge, culture and objects should be respected.

Whether it is the use of:

- stories and legends;
- sacred objects, sites and knowledge; or
- ceremonies and celebrations; and respect the spiritual protocols of regions. This includes knowing what knowledge or teachings can be shared, recorded or disseminated. To this end, screen storytellers should:
  - learn about cultural differences and the prevalence of ceremony;
  - learn what is appropriate, and what is comfortable (eg. wearing regalia in certain situations outside of ceremony);
  - know what should not be filmed – ev Potlatch, Sundance, sweat lodge, water ceremony – or what can be filmed beginning and after versus during; and
  - ensure rights to culture and traditional knowledge should be correctly attributed and benefits flowing from the exploitation of these should be shared<sup>8</sup>.

It is helpful for any production to have some kind of Elder's Council to advise and input on all projects, that can be called on to have historical or cultural accuracy and identify anything inappropriate. This resource should also be adopted into financial structures as an industry standard to recognize that Indigenous knowledge is what makes these projects possible and feasible.

Respecting protocols extends to traditional knowledge on any subject matter, including food. During production of *Quest Out West: Wild Food*, creator Tracey Kim Bonneau worked with traditional ecological elders to create a technical guide to determine what should or should not be shown on television with respect to traditional food and medicine. They were not only paid for their contributions, the elders approved the document and made suggestions for carrying the work out. She also engaged an expert on legal and appropriation for the technical sessions and used a cultural consultant. This extensive pre-development was a two-year process that required the use of company revenue to ensure that the process was respectful.



*"It is a shared responsibility that these stories remain respectful to the origin of community they exist within, we do not have right to change these stories or tell them without consent of traditional knowledge systems. Indigenous communities practitioners can tell their own stories – they are the ones that can work with their communities to ensure respect of protocols and ideologies."*  
— Tracey Kim Bonneau, Producer

### c. Ensure that you obtain the proper consent and permission.



*"How do you determine if they are talking to the right people? If it is not clear then they are likely not there. There needs to be clarity of consent and permission."*  
— Jessie Short, Filmmaker

There are many entry points to determine where proper consent lies:

- start with the governing Nation;
- start with the protocols office;
- start with the Band Office (determine if you need a Band Motion);
- start with the Tourism Office;
- start with Traditional Governors;
- start with community Elders; or
- start with the language keepers.

The ethical process of consent begins with transparent discussion and open negotiation which empowers the participants to know the "risks, benefits, and consequences" of what is being asked of them. Some of the best practices used in establishing consent include:

- establishing a set of values for the project;
- sharing stories (including your own), not simply taking stories;
- establishing a community steering committee (if required);
- providing communities or subjects with the first right of view; and
- developing accessible legal information and forms.



*“One individual or family does not speak for the rightful rights owners. We need to make sure that the rightful owners give the permission. For example, I used the Raven stealing sun story. I met with a Raven clan leader and he wanted to hear the story; and after I told him the story, as I know it, he gave his blessings because the telling of the stories was the same he heard as a child. I had to get permission from the Raven clan, who approved both the story and the final product. The Teslen have a traditional knowledge policy for stories, medicines or teachings, so I also met with heritage department who to ensure all the conditions are met. Getting verbal permissions used to be the practice. There should be a more formal and procedural process to permissions, with the appropriate forms.”*

**— Duane Gastant Aucoin (Filmmaker),  
on *My Own Private Lower Post* (2008)**

“Ownership” over stories or Indigenous cultural property is a concept that extends beyond the individual to the community. In obtaining proper consent keep in mind too that there are nation stories and rights, community stories and rights, and individual family stories and rights. When you are contemplating the use of oral histories understand that there may need to be some limitations of where copyright applies and you may want to consider “shared authorship” or “co-creation” credits with community members.

It is important to acknowledge that not everyone follows tradition in all communities – in fact, some communities have competing interests between traditional / non traditional peoples – so, a respectful approach means reaching out to both elected leaders and elders. Further, it is important to understand that consulting with one elder does not give you sign off or permission. Knowledge that may pass away with an elder doesn’t necessarily belong on broadcast. This can be paradoxical, even for Indigenous creators: You may want to take the knowledge you’ve learned and share it with your people, but you are not allowed.

#### **d. Individual life stories**

Another protocol is ensuring the persons or “subjects” - even in narrative film or film adaptations – are okay with the portrayal; and that people are being represented as they should be, with due diligence.

Screen storytellers acknowledge that documentary is a powerful tool; and regardless of good intentions, permission should be sought in the beginning and throughout production to ensure that what you are presenting is not exploitative and is accurate. In fact, at times individuals are not the owners of the story even if it is about personal experience, such as experiences with residential schools wherein entire communities were impacted. Ensuring appropriate representation requires continuous engagement and may be achieved by written agreement with participants to review footage and provide feedback, providing both buy-in and trust around projects.







*" When deciding on story you need to determine: 'Is this nation-owned? And if so, then how do I get the permission?' I knew that The Cave would be contentious because it is a nation-owned story with six communities and a number of families. So I had to select a particular elder's version of the story and make it clear whose story I was adapting. In this particular case it was my great Uncle Henry Solomon. Then I had to get permission from our Nation's leadership.*

*You need to set up a system to allow for validation and state your intention or vision with transparency: 'This is the story I am going to use'. There is potential for a lot of contention within community so you need to make sure everyone is aware of what you are doing and that you are communicating clearly. If I ever wanted to use that story in another way, I am back to ground zero and must again seek permissions".*

— Helen Haig-Brown, Director on ?E?anx (The Cave) (2009)









*“Most of my films are made with people who are already experiencing marginalization and oppression. So when asking people to participate, I ensure that they know that this will be seen widely and publicly. Most people do not actually want to be in a film but they are going through something that they do not want others to go through. So I am told: ‘I will do this because I don’t want any other mother to feel what I am feeling.’*

*I spend time talking about where the film is going to go in order to prepare people and determine if they have supports in place for when the film goes public in order to handle the repercussions. This requires a lot of negotiation around how to respectfully participate without overstepping boundaries.*

*And the relationship is not done when the film is done – ultimately you are committing to a long-term relationship with families, with people. I spend time just listening to people and maintaining the relationship, making myself available if they have questions or concerns. We are never dispassionate; this is never just a job.”*

— Tasha Hubbard, Director on *Birth of a Family* (2017)



### e. Sensitive subject matter

While the TRC report and process is complete, Indigenous people in Canada are still working through healing the social, economic and mental health issues unearthed by the Commission. Re-traumatization or the repercussions of intergenerational trauma need to be mitigated when dealing with potentially triggering subject matters, which increases the storyteller's responsibility to ensure safety in treatment of "subjects" (in both subject matters or in the presentation of material). The same can be said when dealing with highly complex and sensitive issues with painful truths. Opening stories opens gateways, and digging up sensitive issues requires both taking and giving back; involving an obligation to support and heal wounds that we have dug into.

One way to ensure the safety of "subjects" is to ensure the cultural acuity of those working in community or on sensitive issues. This means that cultural sensitivity training is a must, but also, just a starting point. It may be necessary to ensure that the appropriate cultural and emotional supports are present during filming or screening. Many productions use daily smudges, have community health workers on site, and hold ceremony at the beginning and end of a production. Ceremonial practices were also considered bonding experiences with non-Indigenous crew members.

In order to ensure that the Director's approach to depicting sensitive subject matter is well considered and balanced, it may also be important to have sensitivity reads with the appropriate community members or elders. Sensitivity reads will unearth ill-informed biases, inappropriate language use, and stereotypes that may harmfully impact the community.

## g. Meaningful collaboration



*“The prevalent and ongoing practice of seeking Indigenous input is often disrespectful. Sending an email to ask questions post-production – it’s not even consultation. And consultation is not what we want either. What is needed is engagement from the beginning, during the research, in the development stage. It is active listening as a practice, and taking the time to ensure you have got it right.”*

— Tasha Hubbard, Filmmaker

The existing persistent industry practice in Canada is using Indigenous storytellers as consultants on productions written, directed and produced by non-Indigenous people. A commonality of participants in the protocols consultation process is that they have all been inundated with requests to serve as consultants on a non-Indigenous project, many of which were nearing the stage of completion. Indigenous people are asked to make non-Indigenous stories more culturally appropriate, crediting these fundamental roles as “consultants” rather than as writers, directors and/or producers.



*“I am constantly receiving correspondence from non-Indigenous people who want to tell Indigenous stories, and either want to mine my knowledge free of charge or they are seeking my approval of their project. Many have already been told their project is inappropriate, but they continue to cast about for any Indigenous person who might disagree with that opinion. There is such a lack of respect.”*

— Candy Palmater, Filmmaker/Radio Host

Gone is the era of “consultants” and “consultation”. Meaningful collaboration or collaborative approaches are considered an Indigenous industry standard. Meaningful collaboration may apply to working with Indigenous content, Indigenous communities, or Indigenous screen storytellers. Meaningful collaboration is a means towards acknowledging Indigenous screen storytellers’ responsibility to community, and the pathway of choice is to move away from the use of “Indigenous consultants”.

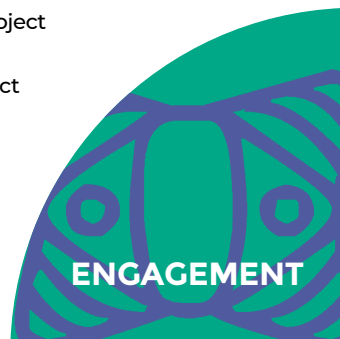


*“It is FAR past time for the era of Indigenous consultation in the arts to be over. Indigenous people must have KEY creative positions in work made about us, full stop. Otherwise, the colonial relationships/gaze continues.”*

— Danis Goulet, Filmmaker

These exact sentiments were echoed by Indigenous screen storytellers time and again throughout these consultations. There was general consensus that as opposed to engaging “Indigenous consultants”, non-Indigenous productions in particular should move towards a model of meaningful collaboration that not only follows appropriate protocols, but provides significant opportunities for credited production employment, serving to support the Indigenous screen industry towards the goal of narrative sovereignty.

- Establish a set of values for project
- Build respectful relationships
- Outline the intent of the project



- Start with the governing Nation, Band Office, Tourism Office, Protocols Office, Traditional Governors, Elders, Language Keepers
- Determine where appropriate story ownership lies
- Learn what is appropriate and comfortable to share and know what should not be filmed



- Appropriate acknowledgements
- Contextual marketing materials
- Community screening and celebration

- Establish an Elders Council
- Hire a community liaison
- Develop community benefits or capacity agreements

This shift in focus reflects the shifting role of communities, from consultants to collaborators, including co-production and co-ownership of copyrights. Meaningful collaboration means that Indigenous communities are getting involved at earlier stages of production, contributing to the telling of their own stories by working as key creatives in projects. This includes someone from the community being in charge of building and maintaining strong connections within that community (as discussed in Working with Indigenous Communities). In some cases, that position might be held by a director or a producer who comes from the community being impacted,

but in the case where the director and producer are Indigenous or non-Indigenous outsiders, bringing on people from within those communities and ensuring that their contributions are valued and adhered to. In the north, there is a dearth of experienced producers, and so collaborations are plentiful. For some Inuk, the only access to production is through partnering with non-Indigenous people on non-Indigenous projects. Simply put, it is easier for those working in communities with production companies to have Indigenous led projects. These projects serve as an entry point into the industry and often accelerate experience through collaboration opportunities.





## THE NORTH/SOUTH RELATIONSHIP

*"The hardest part of collaboration is working with people from the south - they have a lot more experience than the people they are working with so there is a need to equal out the playing field. We repeatedly see white people who make themselves indispensable through perpetually "helping" the Inuit, and never exiting; which ultimately stops people progressing in their careers. Some of the best practices that can be cited from recent experience include:*

- leaning out and make more space for Indigenous creators in your process, which means not taking the lead all the time, not making yourself indispensable, and not placing yourself at the top of the creative tree. Sometimes it is subtle and other times it is blatant taking up of space;*
- acknowledging why decisions are important even if you don't understand them. Understand that you don't know the community. This requires a certain depth of humility and openness to learning over time, but it is integral to building trust;*
- investing in each other as producers and directors is an aspect of developing a mutual relationship.*

*This may include providing additional training opportunities, investing in infrastructure, or exploring projects Indigenous creators or communities want to do.*

*Working in community we put ourselves out there to be held accountable. I would not put myself in the position of not having the control to shut down a shoot if things are going wrong. You need to have the control if you are taking the accountability."*

— Alethea Arnaquq-Baril & Stacey Aglok MacDonald on *The Grizzlies* (2018)



### 3. WORKING IN INDIGENOUS COMMUNITIES



*"I go to the locations on my own for several weeks, and I don't go only once. I spend a lot of time with the people, telling them what I'm trying to do, and asking their advice. We converse and see if we are on the same level, because in my mind, I'm not the only one making the film; it's many people, and they are the most important part of the film. I look up to them. In 99 percent of the cases, the interviews are very private. They are between me and one particular person. And the reason why we are able to converse that way is because we come from the same place, and there is an automatic understanding. I might ask them to repeat certain things on camera, when the crew arrives, but a lot of things they wouldn't say on camera, or in front of another person, because it is too difficult. This is why I use a lot of voice-over. I really like that process. The feelings and the emotions really come through even though you don't always see the person's face right on camera."<sup>9</sup>*

— Alanis Obomsawin, Filmmaker

#### a. Building respectful relationships based on trust

As outlined in the Principles section, respect and relationship building are corner stones of working with community. Communities are often honoured when their stories are portrayed, and perceive this as a process of acknowledging and respecting community practice and history.

This includes being knowledgeable about the way of the people and getting to know them, often through informal dialogue, prior to any formal consultation. For many screen content creators, there is an ongoing relationship with the community and community members often remain involved after a project has been completed. Obviously building these relationships takes time and is often financed by individual creators, outside of the parameters of development budgets. And more often than not, building these relationships occurs in the kitchen with tea and bannock.

Understand that most Indigenous communities are under-resourced and deal with multiple competing social and health priorities on a daily basis. This means respecting their time, their administrative protocols, and their cultural protocols; including when they may be in ceremony, on the land, or in the midst of a community crisis. Understanding the "giving culture" of a particular nation, and ensuring that the appropriate "gifts" are given to the appropriate people – tobacco, feasts, providing for gas - is another demonstration of respect.





*“There is a need to sit across from people. Consultation cannot be “dialed in”. You have to be in the kitchen to build relationships. People eat when they meet which is a large part of the budget. I worked with elders from different communities that came on board as translators and cultural keepers to ensure appropriate language and costume use. These people were on set all day to help with changes. Elders need to be taken care of, and while this may include an honorarium, it also includes food, transportation, and medicines. This is how we demonstrate respect”.*

— Marie Clements, Director on *The Road Forward* (2017)

#### **b. Outlining film intent, how it will be used and how widely it will be distributed**



*“If you are working in an Indigenous community – they need to be brought together and informed of what the script is about, what the story line is and how it will develop. What is the complexion of the story and how does it relate to an Indigenous story? This is about respect and the capacity of the community to get behind the story taking place on their territory”.*

— Duke Redbird, Filmmaker, Cultural Elder

There are both formal and informal ways to be transparent about what story you’re trying to tell – and they both begin with having an open dialogue. Depending on the subject matter or content, Indigenous screen storytellers may also present their project and get buy-in not only from Chief and Council, but also Elders council, Educators, Language Holders, Knowledge Keepers, and community members large. Questions for consideration in discussion with community include considering how the subjects will feel about how they are going to be represented. One means to achieve this is creating a mission statement and sharing it broadly within the community.



Barbara Hager used a vision statement to illustrate how she would be collaborating with communities in the production of *1491: The Untold Story of the Americas Before Columbus*. It was included in packages sent to communities and used by team members as the basis of presentations to Chief and Council, to community, and the framework for getting signed consent and community support and approval. The producers are committed to:

- featuring Indigenous scholars and cultural leaders as the primary interpreters of their history;
- respecting the nations whose stories will be told by seeking permission to film in their territories;
- consulting with cultural leaders to ensure appropriate depictions of their stories in the dramatic vignettes;



*“Access is everything – if you don’t have access you don’t have a story. As a filmmaker, it’s important to build trust with the Indigenous community that you want to work with. You need to introduce your project to the proper authorities in the community, ask permission to engage the community or share their story, and agree upon the terms of approvals and compensation. The producer needs to assure the community that their story will be treated with respect and they won’t be misrepresented or exploited.”*

— Barbara Hager, Producer on *1491* (2017)

- casting Indigenous people in dramatic recreations who are culturally affiliated with the stories being told;
- including the history of Indigenous people from every region of the Americas;
- engaging a predominantly Indigenous crew in key creative and technical positions.

Hager strongly recommends that even in the case of small projects, it is still necessary to contact the appropriate authority, whether that is the band office, or an elder, or a language teacher. The entry point for a community is different all the time.

### c. Hiring a community liaison



*“When people from outside the community approach a community to participate in a film or documentary there has to be some sort of intermediary – some connection to the community”.*

— Jeff Bear, Producer

A common and much promoted protocol is the use a community liaison or nation liaison, someone from the community who works with community members such as Chief and Council, or knowledge keepers, or even the departments of education or health. This will allow a production to incorporate as many community members as possible. The extent of the role - it may even be that of an Associate Producer or a production manager – should be incorporated into budget to ensure that they are paid accordingly, recognized by funders, and described in applications.

These are meaningful positions, particularly if they are involved from early development stages, facilitating your work in a number of ways:

- bringing a skill set and providing “boots on the ground”;
- increasing communication and outreach within the community;
- identifying and possibly resolving disputes, issues, or permitting;
- hiring and paying community members;
- knowledge of language; or
- helping with Indigenous crew.

Knowledge of language was considered particularly important when working in Inuit communities, and the best way to achieve this is by using a community liaison in your production.



*“Meaningful participation means listening to the people you are working with, being open to being responsive if something goes wrong, and ensure you are working with the right people.”*

— Jessie Short, Filmmaker

### d. Developing community benefits and capacity agreements



*“We go into communities to bring something and then to take. It cannot just be a one-way street. It has to be that you are receiving something but you’re bringing something. And at the end of the day the community has benefited from what you’ve been doing. Not just you, not just your career, not just your show, not just your artwork.”<sup>10</sup>*

— France Trépanier, Filmmaker

In the spirit of reciprocity, and depending on the nature of the content, developing community benefit or capacity agreements is considered a best practice. These agreements may include:

- ensuring fees and clearances for shooting on their jurisdiction;
- exploring skills and development opportunities;
- employing community members on crew;
- providing copies of footage for the purposes of community use and cultural preservation;
- providing access to materials – hardware and software in schools or community;
- practicing giving and donating to the community or community programs, bringing gifts or medicines;
- showing the work to the community – as appropriate – for input during production and post;
- organizing a community screening soon after film completion; and
- exploring giving rights to show the work in community context for educational purposes. For example, creating a license in perpetuity, as a way for the community to share in the profits would represent a new business model for working with communities.

Vanessa Loewen, from Animiki See Productions, encourages open dialogue as part of the protocol process, and uses these questions as part of the framework:

- What are the resources that can be used at the community level?
- What does the community want to put forward?
- How will the community have a voice?
- How are you demonstrating reciprocal accountability?
  - o do they get to look at scripts?
  - o do they get the first screening?
  - o is there going to be a fee?
  - o does the community get copies?
  - o are you using staff and crew from community?
  - o how are they going to be compensated?







*“The feature filming of SGaawaay K'uuna (The Edge of the Knife) structured the engagement to look like a community planning process so that it was community driven. While there was no existing Haida film protocols per se, by virtue of working with community the appropriate protocols were learned. There are standard government bodies and permissions (eg. Haida Nation) to be sought, thus engagement begins early in the script process. The producers and director met with the Haida Nation to work out the relationship, including giving a presentation at the Nation Assembly.*

*The production team used elders and Chiefs as an advisory board to ensure historical or cultural accuracy and identify anything inappropriate. There was also follow up with advisors to show them what was being used, and although the process was not formalized, it was done prior to lock to ensure their feedback was part of the process.*

*ISUMA had their own ideas and protocols stemming from their vision of leaving some long-term film commitments in community. These practices included ensuring that at least 75% - 80% of those involved in the production were Haida. Community involvement included everything from building long houses and props, to wardrobe, to cast and crew. The teams also ensured shadow positions available were available to learn and enhance capacity within the community.*

*Recognizing the need to celebrate with community, a community screening was held. It was also important for communities have a copy of all of the raw footage and permission / rights for it to be used for their own educational or community pursuits. The footage can be archived and housed at the Band Office so that families and community members have access or use without fees. High quality, usable footage is one way to help develop community resources.”*

— Helen Haig-Brown, Director on SGaawaay K'uuna (The Edge of the Knife) (2018)

## e. Script development



*“When you are dealing with a community story you need to deal with the community that holds the story – you cannot write a script without talking to the community about what you are doing or having community input – particularly if you are writing from outside that community.”*  
— Hank White, Producer



*“Non-Indigenous writers do not differentiate the subtleties and details between Indigenous groups or nations. Writers are often the culprits and see the Indigenous community with romantic and distorted notions, so scripts always need a script advisor. Productions need to be committed to taking the time and doing the research to take these things into consideration.”*  
— Duke Redbird, Filmmaker,  
Cultural Elder

Not only is script consultation required, which may be achieved by using Indigenous writers, collaborators, or script assessors, producers also need to properly credit individuals or communities for their involvement, in keeping with industry standards.

This includes:

- appropriate attribution of owners of Indigenous cultural and intellectual property
- proper acknowledgement of Indigenous advisors, consultants, script editors, cultural and community advisors.



## 4. WORKING WITH INDIGENOUS CREW OR CAST



*“All cast and crew have the right to be free of harassment, discrimination, sexism, and threatening or disrespectful behavior from any other cast or crew. We thrive to work and walk responsibly, professionally and caringly at all times.”*

— Darlene Naponse, Director and Producer on *Falls Around Her* (2018)

### a. Paying of actors and community members

It should go without saying that actors should be paid in line with industry standards. It is critical that regardless of whether or not Indigenous crew belong to a union, that they be paid equal to that of their non-Indigenous co-workers - even if they are employed through a mentorships program. Some of those consulted felt that this is especially true in documentary – that there is a need to start paying subjects. Quite often the people being documented are living in poverty, and in these instances paying subjects needs to be reflected in the budget.

It is normal to treat and pay a cinematographer based on the value of their work. The same is expected for the contributions of elders, knowledge holders or language keepers. Fair and respectful relationships include:

- compensation to individual Indigenous contributors, and to Indigenous communities and organization;<sup>11</sup>
- Indigenous language translation is an important part of Indigenous People’s cultural reclamation and resurgence. Proper acknowledgement of, and compensation for, translators is essential as a sign of respect for their role in Indigenous language revitalization;<sup>12</sup>
- there is a protocol of “giving” in community, which means, you not only feed a cast and crew of 40, but you feed 120.

### b. Sensitizing non-Indigenous crew

Creators stressed it is important to sensitize non-Indigenous crew members to appropriate behaviour/norms and any sensitivities involved around what is being filmed. It is also important to monitor the relationship between the crew and community. Everyone on production, from sound to editor, need to understand and know the people.

Community members should not be given the role of sensitizing the crew. Crew sensitivity should be done prior to arriving in the community, by the production team. This kind of work can bring up difficult/sensitive issues, and crews attempting this while in the community may risk damaging valuable relationships with community members. Thus, where possible, sensitizing the crew should be done in the pre-production stage.



*“We explained that the Inuit do not work in hierarchies, that there will be Inuit in every department of the production, and that they must not only be provided with learning opportunities, but that they must be respected. You may know about production but they know about community and equally important – they are not your assistants.”*

— Alethea Arnaquq-Baril, Filmmaker



*The Body Remembers When the World Broke Open (2019) d. Elle-Máijá Tailfeathers*



*“Obstacles with crew are industry wide issues – a. there are not enough Indigenous people working as crew members (cinematographers and sound professionals), and b. the crew are the ones working directly with the community. When working with non-Indigenous crew who represent the voices and opinions of Canadian settlers you often encountered grave misunderstandings about our people. Not only a severe lack of knowledge of the impacts of colonial policies on our people, but also on issues such as addiction and how it impacts our community. Mentorships are an excellent way to fill the gaps in crew (eg. cinematography mentee or employing production assistance) and bring employment to the community; however, mentorships are not the best long-term plan for building capacity.”*

— Elle-Máijá Tailfeathers, Filmmaker

## 5. WORKING WITH ARCHIVAL MATERIALS

*“There is a lot of archival footage that belongs to the CBC or the NFB that younger generations don’t have access to. For example, there might be some archival footage of someone’s grandparent, but that person can’t use it because he/she doesn’t have the rights. CBC/NFB and any other right holder should give ownership of this footage that was acquired in the past (often through questionable means) back to the communities or families so that Indigenous filmmakers can have access to all this footage without having to pay for it. Archival images (much like museum artifacts) should go back into our communities, so we can use them without having to pay non-Indigenous peoples for the rights to our own material.”*  
— Youth Respondent

The issue of access to and reuse of audio-visual archives is of course as complex as fundamental questions around who tells whose story and who can grant permission for the telling of that story. Appropriate use of archival material (completed films as well as original shoot and sound material that has been preserved), in many instances, would need to be determined with appropriate community consultation. There are two general scenarios, and in both contexts, the ability to reuse images would have parameters:

1. Situations in which appropriate permissions have been granted for use of images/audio in a particular film and in a particular context;
2. Films where proper permissions were not obtained. In these cases there is a need to determine use/reuse protocols, which requires returning to individuals/communities. As we know, historically permissions were not sought or granted for many of the works housed within existing screen archives, thus, certain things were captured and disseminated that should, quite likely, not be in the public eye and should not be reused.

The NFB will soon undertake a research project to create a scan of global best practices for the preservation and appropriate use/reuse of existing archives, such as the Indigenous Cultural and Intellectual Property (ICIP) rights guidelines used by the National Film and Sound Archive of Australia or protocols to respect Indigenous intellectual property and cultural heritage used at the Smithsonian. Thus, in the spirit of a “living document”, working with archives is likely the first area of the protocols that will be updated and added to accordingly.

### a. Use of archives in a new film

Some of the protocols cited for the use of archival materials include:

- a principled access to archives may include concepts such as returning all the original masters to the community;
- confirming the use of interview footage is by permission of the subjects or people in the film;
- exercising due diligence (beyond existing legal requirements that do not reflect community or nation ownership) in obtaining approvals from individuals and/or communities for reuse of archival materials in a new context; and
- ensuring the community has the ability to preserve some of this media for community use.

## b. Archiving materials associated with a film

A recommended best practice is ensuring that masters are returned to communities. This ensures communities have rights to the archival collections and control the permissions and access. This has implications as to how rights are negotiated and determined in the development process. It is also important then that the community has the resources and capacity to preserve and maintain these works.

In the instance when an institution such as the NFB is the custodian of a significant archive, individuals/ communities will be involved in determining the protocols around archiving and having continued access to their own stories. Protocols may include:

- specifying where archives are stored and conditions of access and reuse;
- providing detailed catalogue info so there is a clear record of what has been shot, where, with who, as well as what has been consented to in terms of use/reuse of images and sound;
- versioning into an Indigenous language (post-production) to ensure that the legacy of the film lives on and is accessible to community (eg. the NFB's *Kanehsatake* has just been versioned).

Key questions for consideration moving forward include: Does the product revert in 10 years to community owned? Can you revert ownership? Can we make contracts that reflect the idea that within a certain time frame, the ownership reverts back to the community?

## c. Virtual Reality accessibility and archival

Participants noted that many of the same archival interests and questions apply to the VR experience. Of course VR and interactive/ immersive works pose their own unique challenges vis-à-vis archiving and continued accessibility over the long term. This kind of work is so dependent on transient technology, software, and browsers and is therefore unstable. As the technology develops, original works sometimes can no longer be seen, so the experience and its intent needs to be documented in other ways. For example, a lot of the NFBs early interactive work was programmed in FLASH - software that is being phased out entirely by the manufacturer by 2020. Many of these works can't be seen anymore, however, reprogramming these work (for example in HTML5) would require significant resources and will only extend life for a fixed window.







*"As a filmmaker living on their territory for 13 years, I had a responsibility to do something more with all of that footage so that it not just end up in archives. I wanted to recreate that sense of deep learning that I experienced in the interviews."*

This project emerged as a legacy project based on a 3 part museum exhibition curated by the Museum of Anthropology, Museum of Vancouver and Musqueam Cultural Centre. With the blessing of the territorial team and community advisory board at Musqueam, Elle-Máijá Tailfeathers did the video work for the 3 exhibitions and subsequently applied for a small grant to translate that footage into a feature length documentary as a kind of legacy project for the exhibition. During both the original exhibition, and subsequently in the film editing process, Tailfeathers consistently consulted with a community advisory board and the Musqueam curating team to determine what aspects of Musqueam culture can and should be shared with the public. A community screening was held at the rough-cut stage in order to invite and incorporate feedback. The Musqueam wanted the inclusion of the voices of their ancestors and elder that had past into the film. This was a huge challenge, as it meant going back to the Musqueam archives and looking at historical archives and physical documentation of statements from elders.

*"Including quotes from the archives wasn't something I had considered because I often feel that too much text on-screen doesn't do anything to strengthen the narrative but it was what the community wanted. I had to let go of control of the project in that sense and recognize that my role as an independent filmmaker in this instance was to serve the community and respect their choices. Ultimately, the archival quotes only served to enrich the production."*

*The repatriating research is interesting and important. Footage of elders, interviews with community – we have a responsibility to use these stories for community purposes as opposed to simply research for films. They should not be sitting in a vault or somewhere that no one has access to."*

— Elle-Máijá Tailfeathers, Director on *cəsnaʔəm – the City Before the City* (2017)

## 6. RELEASES



*“Mistrust comes from a valid place mired in a complex history. Releases use terms like ‘in perpetuity’. It’s about language and ownership. It is important to equip communities outside of the production sector by giving them more informed positions before speaking with content creators. Materials can be provided in advance so they (communities) know what abilities filmmakers have and how much control they actually have regarding content; then the relationship could be more transparent, equitable, perhaps even fair and balanced.”*

— Jeff Bear, Producer

As we know, release forms give producers ownership. Changing industry practices and standards in this regard has practical application when developing Indigenous industry standards of practice. Suggestions include:

- adding the line on your release forms “for use in this film only” to prevent it being used without proper permission;
- ensuring release forms are in plain language and / or develop alternative ways of doing release forms (such as recordings) that account for language and writing skills;
- in New Zealand, there is a precedent for community retaining rights to projects and if you want to show a work, you have to clear rights with the community or the family. In many cases it cannot be shown unless a community or family member is there to ensure it is in the appropriate context;

- determining if you can provide a copy of the interview and/ or final project; “... production companies hold all the power in these relationships, as they define the terms included in the waivers and consent forms. We would urge production companies, especially when interviewing Māori elders and experts, to be sensitive to the fact that they are being gifted with sometimes ancient knowledge and traditions. Without trying to interfere with the intellectual property rights of producers, we suggest that production companies would be making a useful and powerful contribution to those communities if they made available the footage that they shot in those communities.”<sup>13</sup>

Another option is having a secondary document of commitments, or a release form from the director to the community. For Helen Haig-Brown, a lot of her understanding of protocols came from Māori practice:

*“It was amazing to shift my idea around release form and look at it as a commitment that I am making to the person versus the other way around. It is vital to discuss the vision for project and then make that commitment to them. I do not own what they have done in perpetuity; the family owns it and it will go to children and grandchildren so it is important to spend time with that family getting permissions based on vision and determine how they would like to have influence.”*



## 7. MARKETING & DISTRIBUTION STRATEGIES

*“We also need more support to allow our creations to travel both within our community and through other communities. It should be mandatory to give back and share; any Indigenous production should commit to a strategy of distribution to Indigenous audiences.”*

— Youth Respondent

Most distributors want an exclusive arrangement, limiting an artist's ability to promote their work to the variety of audiences they find it important to connect with. There are a few exceptions that were noted, including Vtape and Animiki See Distribution, an international distributors, based in Canada. It is an arms length subsidiary of APTN with a mandate to promote and sell content to the global market from Indigenous producers from around the world.

As we know, the private sector focus is often on a shareholder driven model that maximizes paid audience. Thus, funding is often biased towards commercial release. Unfortunately this model does not take into account festival and community screenings/ or alternative distribution (such as trailblazers at ISUMA TV) which is considered equally important to Indigenous creators. As a result, more and more Indigenous producers and directors are seeking alternative models of Indigenous distribution that balance both mainstream and community paths (and the importance of mapping a path to Indigenous communities both domestically and internationally).

Indigenous screen storytellers see roles for the CMF and CBC in this regard. As government agencies, there are obligations stemming from UNDRIP and the CRA to protect and distribute Indigenous culture. Indigenous priorities are often towards the preservation and protection of culture, and not solely for the purpose of monetary gain.

So how do we create more space and distribution opportunities for those seeking a different path?

- acknowledging that taking the story back to the community is a top priority; or recognizing in many instances the project has an obligation to go back to the community. Doing community screenings and celebrating with the community should be an essential part of the budget. This should not be a barrier to a contract with a distributor;
- ensuring opening nights have cultural and territorial acknowledgements, as well as participation of subjects/ families/ community, other Indigenous groups;
- having targeted outreach to Indigenous communities (who may not read mainstream press);
- ensuring appropriate community consultation regarding the contextualization of the project in marketing materials (social media, trailers) and ensuring appropriate language and wording in synopses, descriptors, and messaging etc.

## IMPLEMENTING PROTOCOLS

The implementation of the protocols requires participation from the entire industry. All industry stakeholders have a role to play in disseminating, promoting, and where appropriate, determining how the protocols will be reflected in their internal processes and practices.

For example, when we look at the Australian model we see that the “obligation to observe Indigenous cultural protocols is being endorsed by funding agencies and professional associations (Australia Arts Council, Screen Australia and the Australian broadcaster SBS) and incorporated into filmmaking contracts. Contracts create legally binding obligations for the use of Indigenous cultural and intellectual property. Screen Australia requires that all applications for funding that involve Indigenous stories and content provide a one-page statement on how they plan to observe the relevant protocols for their production. In this way, Indigenous cultural protocols are bridging gaps between the Australian legal system and Indigenous customary laws concerning the protection of Indigenous cultural and intellectual property.”<sup>14</sup> Where productions are made without benefit of Screen Australia funding, there is said to be an absence of consultation or collaboration with Indigenous peoples. To avoid abuses, enforcement is needed.<sup>15</sup>

Indigenous community members were clear that they do not want large institutions to be in a position to prescribe how Indigenous filmmakers should be interacting with Indigenous communities. These protocols are not meant to hinder production, however facilitate the pathways to respectful and ethical production of Indigenous content.

## Working in the Context of Reconciliation and Nation-to-Nation

Implementing UNDRIP and the Truth & Reconciliation Commission (TRC) Calls to Action, are commitments that have been made by the federal government. Core to the principle of “reconciliation” is an ongoing process of establishing and maintaining respectful relationships between Indigenous and non-Indigenous peoples. For Indigenous peoples in Canada, this renewed relationship includes the concept of economic reconciliation. In the context of screen productions, this means:

- working collaboratively to support Indigenous screen storytellers in telling their own stories and getting them to market;
- participating in the reclamation of Indigenous cultural narratives; and
- helping to bring Indigenous productions into the mainstream, serving to both protect and monetize Indigenous made products.

Reconciliation in this vein can be achieved through policy and legislation. Some key industry partners, such as the National Film Board, are prioritizing Indigenous screen-based initiatives and strategies as a response to the TRC calls to Action. Another approach is that of the Canada Council, which is the first institution attempting to implement UNDRIP within their policy statements:

“By affirming the UNDRIP Declaration, the Canada Council commits to a nation-to-nation relationship with Indigenous peoples that is rights-based and comprehensive. By supporting and embedding the UNDRIP within our value system, we make clear a path forward to self-determination and cultural sovereignty for Indigenous peoples without compromising our support for artistic and creative expression.”

The Canada Council was cited by many consulted as a pragmatic starting point and best practice approach other institutions may want to consider.

## Moving Forward

Expectations for gatekeepers are multi-pronged and incorporate both immediate and mid-to-long-term goals. While many aspects of the protocols – such as guiding principles and best practices – can be adopted and implemented in the short term; other considerations such as changes to copyright and changing legal frameworks require ongoing conversation and longer term solutions. Next steps cited by contributors include:

1. Encouraging the adoption and promotion of protocols by those in decision-making positions:
  - a. federal and provincial funding agencies;
  - b. public producers and public distributors;
  - c. industry and professional organizations;
  - d. art councils;
  - e. broadcasters;
  - f. training institutions;
  - g. distributors; and
  - h. festivals.
  
2. In adopting and promoting the protocols, screen industry stakeholders need to determine how their internal processes can both reflect and uphold the Protocols and Pathways, using the principles and practices as levers and guidelines for policy change, decisions around funding, and decisions around screening content:
  - a. establishing mechanisms for juries, committees and selection processes;
  - b. adjusting funding models and budgets to take into consideration the time and administration required to meet the protocols by establishing longer development windows and increasing development budgets;

- i. also ensuring remote and northern funding envelopes take into account exorbitant cost of infrastructure and travel to this end;
- c. incorporating Indigenous representation and decision makers within organizations;
  - i. have Indigenous decision makers determine what implementation of the protocols in your institution or organizations may look like;

There remain few, if any, Indigenous people represented in the film industry at large, within funding agencies, broadcasting networks, distribution companies, festivals and other film-related organizations. The under representation of Indigenous people within the industry means that Indigenous filmmakers must often navigate a “culture gap” when it comes to their work. Indigenous writers, directors and producers alike cited a lack of cultural understanding of Indigenous content, process and stories as a barrier to working within the larger industry to develop and produce content.

Pre-conceptions about what defines an Indigenous film affected the feedback received on scripts. Some filmmakers reported that they had received the critique that their content was too niche and specific, and in other cases not specifically “Indian” enough...As a result, filmmakers reported being asked to repeatedly confirm to non-Indigenous preconceptions about what is commercially viable.<sup>17</sup>

- d. reflecting and respecting Indigenous languages in processes to facilitate Indigenous participation, acknowledging where English and French are not the first language of Indigenous creators.



*“To get where you want to go, you have to jump ice.”*

— Zacharius Kunuk, Filmmaker

3. Advocating and promoting awareness for the use and adoption of these protocols across all aspects of the industry, not only to serve as best practices, but also to:
  - a. mitigate the prevailing and persistent mainstream practice of using Indigenous storytellers as consultants on productions written, directed and produced by non-Indigenous people;
  - b. support decolonized stories by opening up the definition and concept of story telling to include Indigenous artistic visions and bring diversity back to the art form;
  - c. ensure protocols are used as an ethical component of cultural competency training;
  - d. support capacity building initiatives in the sector.
4. Adopting a common definition of “Indigenous production” – First Nation, Métis and Inuit production.

The current standard developed in consultation is that 2 out of 3 of the key creative positions in a production (Writer, Director, Producer) be Indigenous. The vision moving forward is one wherein the capacity in the Indigenous industry for all 3 of these “above the line” positions to be Indigenous, when talent is available.

The production company should also be Indigenous owned and defined as a sole proprietorship, a limited company, a co-operative, a partnership or a not-for-profit organization where Indigenous ownership and control is minimum of 51%.

## National and Public Funding

When it comes down to implementation of the protocols, it is suggested that the use of public monies should be governed by principles of equitable access and funding should be conditional on empowering communities and ensuring informed consent. Best practices established in the public sector can be recommended to the private sector, which benefits from important public subsidies. As noted in the Australian model, a key mechanism for implementation is via funding agencies that make funding contingent on the use of appropriate protocols; however, that model also demonstrates that little can be done if non-Indigenous creators are fully self financed. Again, the approach of the Canada Council is cited as a best practice:

*“The Canada Council also considers it normal to ask the artists and organizations applying for grants for projects that address, deal with, incorporate, comment on, interpret or depict unique aspects of the First Nations, Inuit or Métis culture, to show that they have respect and true regard for Indigenous art and culture in their endeavours. Without dictating a specific or mandatory way to go about it, it can be expected that authentic and respectful efforts have been made to engage with artists or other members of the Indigenous communities whose culture or protocols are addressed by the project for which the Canada Council’s support is sought.”<sup>18</sup>*



*“Mainstream media do not reflect Indigenous realities very well. Nor do they offer much space to Indigenous people to tell their own stories - as broadcasters, journalists, commentators, poets or storytellers. Indigenous people have little opportunity to tell Canadians in their own ways and their own words who they are. Because Canadians do not hear Indigenous points of view, they are often left with mistaken impressions about Indigenous people’s lives and aspirations and the reasons for their actions. I quote from Louis Riel: ‘My people will sleep for 100 years, and when they awake, it will be the artists who give them back their spirit.’ “<sup>19</sup>*

— Cara Mumford, Filmmaker

It is anticipated that broadcasters respect the protocols, particularly to the point that there are Indigenous screen storytellers telling Indigenous stories. For example, APTN has put in place formal and informal mechanisms to ensure that protocols are observed in respect to the content and the audience.



*“As the world’s first Indigenous broadcaster, APTN recognizes the importance of adhering to protocols and the value they create towards respecting our history, culture and Peoples. Since 1999, we have upheld our mandate and vision by following our own innovative guidelines and criteria, supported by both our Indigenous committee and producers. APTN is honoured to contribute to this protocol. We believe it will be a valuable resource to the industry, ensuring a stronger voice for Indigenous Peoples beyond our airwaves.”*

— Jean La Rose, CEO, APTN

It has been suggested elsewhere that broadcasters should provide an annual inventory on the Indigenous programming they have pre-licensed, acquired and developed and specify how many of these programs were produced by Indigenous controlled-production companies, to enable the federal government to assess compliance with its obligations to Indigenous people under the Broadcasting Act. This would significantly add to the existing dearth of data and information available on the Indigenous screen sector.<sup>20</sup>

The Royal Commission on Aboriginal People states:

- the Canadian Radio-Television and Telecommunications Commission should require those who hold broadcast licenses in areas with significant Aboriginal populations to provide airtime for an Aboriginal presence;
- mainstream media, both public and private, should provide for a greater Aboriginal presence in their offerings.
- the federal government should support training of Aboriginal people for media positions;
- the federal government should provide core funding for Aboriginal-controlled media and incentives for private support for these media.<sup>21</sup>

### Film Commissions

There are also roles for film commissions to play in the implementation of the protocols. For example, creating a mandatory permit system wherein all productions register with a Commission (eg. Nunavut Film Commission), and as part of that process productions must adhere to the protocols: “No permit no broadcast license”. Permitting is not uniform across the country – it may vest with the province, municipalities, or hamlets – or in some instances the Department of Environment (wild life and parks permits). There is currently no system in place, but local permitting is a valuable way to understand what the economic and environmental impacts around productions, and a mechanism to implement protocols.

### Festivals / Showcases

Showcases and festival curators are also key decision makers who can adopt the protocols. Festivals are considered a “quality stamp” and at times curators are considered the most privileged spot in the industry. When reviewing works festivals should respect protocols and consider the broader implications of screening works. For example, screenings increase the possibilities for broader distribution, and therefore screening non-Indigenous productions of Indigenous “stories” reduces space for Indigenous creators.

### Unions

Consider the conundrum: You want to provide opportunities to your community and you have 30 Indigenous speaking roles – but you have to hire ACTRA union members. The large majority of potential cast and crew in an Indigenous community are not members of a union. You are trying to build Indigenous industry capacity offer a trainee position in every department – wardrobe, office, director’s assistant, props – but the majority of potential trainees are not members of a union.

Those consulted noted that ACTRA, the DGC, Technicians unions have all made allowances for Indigenous non-members and trainees, at times waiving requirements to promote the use of the local Indigenous crew and cast. Producers are currently negotiating individual dispensations from the unions on one-off basis, which is very time consuming but not very strategic. It was suggested that to this end, unions build exceptions for Indigenous non-union or associate members into their collective bargaining agreements.

## APPENDIX A: CONTEXT FOR SCREEN PROTOCOLS IN CANADA

### HISTORICAL UNDERPINNINGS

#### Cultural Genocide

The enduring tools of colonization and the influence of racist government policies also impact the Indigenous worldview in Canada. Despite the legacy of injustices stemming from residential schools, the Indian Act, the breakdown of the treaty relationship, the relocation of Inuit populations, or the denial of Métis status, First Nations, Inuit, and Métis have managed to maintain their own laws, customs, and methods of self-governing.

*“In Canada, the process of colonization has had a profound and lasting impact on Aboriginal peoples, their land, their languages, their cultures and their art practices. Today, many artists consider contemporary art practices to be a process of decolonization, reappropriation, reclaiming and healing.”<sup>22</sup>*

It has been widely acknowledged that years of colonial history have impacted Indigenous cultural expression. This legacy includes historic misrepresentation of Indigenous peoples in screen-based media, perpetuating stereotypes both harmful to Indigenous people and contributing to ongoing racism within mainstream society, and a systematic repression of traditional Indigenous storytelling and cultural practices.

*“Cultural genocide is the destruction of those structures and practices that allow the group to continue as a group. States that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted. Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly to the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next.”<sup>23</sup>*

A relatively ignored aspect of Canadian history is the process of negating Indigenous culture and the cultural genocide that persisted for over 100 years. Canada has a history of denying Indigenous communities their narratives, as traced by the Royal Commission on Aboriginal Peoples, citing:

- in 1884, the potlatch ceremony, central to the cultures of west coast Aboriginal nations, was outlawed. In 1885, the sun dance, central to the cultures of prairie Aboriginal nations, was outlawed. Participation was a criminal offence;
- in 1831, the first of what would become a network of residential schools for Aboriginal children was opened...Attendance was compulsory. Aboriginal languages, customs, and habits of mind were suppressed.

The ceremonial bans lasted until 1951, and the last residential school closed in 1996. The “60s Scoop” continued the residential school tradition practice of taking Aboriginal children from their families, in this instance placing them in care or for adoption. “An alarmingly disproportionate number of Aboriginal children were apprehended from the 1960s onward. By the 1970s, roughly one third of all children in care were Aboriginal. Approximately 70 percent of the children apprehended were placed into non-Aboriginal homes, many of them homes in which their heritage was denied.”

*“The persistent and aggressive assimilation plan of the Canadian government and churches throughout the past century, the marginalization of Indigenous knowledge in educational institutions committed to Eurocentric knowledge, and the losses to Aboriginal languages and heritages through modernization and urbanization of Aboriginal people have all contributed to the diminished capacity of Indigenous knowledge, with the result that it is now in danger of becoming extinct.”<sup>25</sup>*

The trauma and intergenerational impacts of residential schools in particular have been well studied and documented, not only by the Truth and Reconciliation Commission, but also by academics, medical practitioners, and artists. The correlations between culture and health – mental, physical, and spiritual – were first unearthed in 1998 by Chandler and Lalonde, academics studying the epidemic of suicide in BC First Nation communities. They determined: “Communities that have taken active steps to preserve and rehabilitate their own cultures are shown to be those in which youth suicide rates are dramatically lower.<sup>26</sup>” This is one of many studies that demonstrate direct linkages between the mental, social, and economic health of Indigenous people and their relationship with practicing culture.

As a result of cultural repression and attempts at eradicating culture, Indigenous people are in a position where they have to assert their rights to their cultural heritage, traditional knowledge and/or traditional cultural expressions. A key aspect of the nation building process, cultural revitalization is an ongoing process, often beginning with language speakers. Former Chair of Native Studies at St. Thomas University Andrea Bear Nicholas has noted: “Since language is the foundation of culture, its destruction in individuals on a mass scale inevitably leads to the disruption, even destruction, of whole communities and cultures.” Most recently, the Assembly of First Nations, Inuit Tapiriit Kanatami, and the Métis Nation have been working with the federal government to develop a nationwide language law.



*“There was little to nothing that reflected any kind of meaningful reflection or narrative about Indigenous people and communities, urban, rural, historical or contemporary. I realized that Indigenous people everywhere were still being persecuted and that’s why the mainstream wasn’t telling those stories. Because it was shameful. Shameful that our society was thriving while Indigenous people were continuing to be re-traumatized by legislation and systemic racism...I was just so tired of seeing Indigenous stories filtered through a colonial lens, celebrating the colonial experience and delegitimizing Indigenous perspectives and experience.”<sup>28</sup>*

— Jennifer Podemski, Filmmaker



## Cultural Appropriation



*“For many years, or decades and centuries; people, researchers, anthropologists, ethnographers went into Aboriginal communities and took. They took the knowledge, they took the objects, they took the medicine, they took everything and then they left. We’re faced with institutions that are very powerful and that are so convinced that they are right all the time. And they are so convinced using the logic of the Western art world that they are on the top of the pyramid and that their knowledge is universal.”<sup>29</sup>*

— France Trépanier, Filmmaker

On the heels of cultural genocide has been the cultural appropriation of Indigenous stories. Cultural appropriation debates and discussions fade in and out of fashionable public discussion. The topic tends to resurface every few years and is currently under debate on national and international stages, not only in film, but literature and fine arts as well. What is appropriation?

Appropriation occurs when someone else speaks for, tells, defines, describes, represents, uses or recruits the images, stories, experiences, dreams of others for their own. Appropriation also occurs when someone else becomes the expert on your experience and is deemed more knowledgeable about who you are than yourself...



*“I wondered when this appropriation might be thought of as an effort to understand and champion our cause (as paternalistic as that might be), and when it was simply personal aggrandizement, a sure application or an absence of an artist’s own ideas or images.”<sup>30</sup>*

— Loretta Todd, Filmmaker

The number of works by non-Indigenous artists appropriating Indigenous culture (ceremony, regalia, story, etc.) - and this is important – for commercial benefit – are frankly too numerous to list. The number of films that both appropriate and wrongly or negatively depict Indigenous culture in Canada far exceeds the number of films by Indigenous screen-storytellers.



*“Authorship in cinema is dictated by who the creators are, not who is on the screen. That means that throughout history, 99 per cent of films about Indigenous people have not been made by us. We deserve that opportunity as much as anyone does... Even when CBC introduced their latest schedule of shows, there are more shows about Indigenous people made by non-Indigenous people than there are shows made by Indigenous people.”<sup>31</sup>*

— Jesse Wenthe, Filmmaker

The apex in contemporary cultural appropriation debates was the 2017 media debate over an “Appropriation Prize”. Members of Canada’s literary elite urged that nothing prevented the use of Indigenous stories or histories in the practice of non-Indigenous artists, under the guise of free speech. “What’s lacking in much of the mainstream media’s attempt to engage with this topic is the understanding that, in the Canadian context, the appropriation of Indigenous stories, ways of being, and artworks is simply an extension of colonialism and settlers’ assertion of rights over the property of Indigenous people. The history of colonizing Indigenous identity through images, film and narratives has played its part in placing Indigenous perspectives at a subordinate level. It’s this hegemonic system, filled with stereotypes and suppression that continues to thrive within institutions. It erects barriers for Indigenous voices.”<sup>32</sup>

Why is cultural appropriation fundamental to the Indigenous worldview? The reality is that non-Indigenous creators telling Indigenous stories are taking away space or potential opportunities from someone else - someone of the culture. Why is it important to the Canadian cultural fabric? Misrepresentation or partial representation has demonstrated to be damaging to Indigenous communities, and signifies a lost opportunity around reconciliation.

What are the implications? Not only do we risk the persistence of stereotypes and the celebration of “poverty porn” (sensationalization and objectification of poverty) or “traumatainment” (in this instance the use of traumatic social experiences faced by Indigenous people for the purpose of entertainment), there are further risks of negatively impacting the transmission and preservation of Indigenous cultures; or worse, further traumatizing an already marginalized people.



*“And then there is the portrayal of victims. Victims are often voiceless, helpless and also one-sided characters. Their role is to suffer. This dehumanizes and infantilizes them, taking away their agency and complexity. This is generally how Indigenous people are portrayed even in the most wellintentioned stories created by non-Indigenous people. In fact, and unfortunately, there can be a strong correlation between the well-meaning desire to condemn what happened and lift up the victims and the oversimplification of storytelling into the good/evil dichotomy, which gives us the twin satisfaction of being better people than the terrible villains and feeling sorry for the victims, who become sort of childlike and in need of care.*

*And because the higher up the ladder you go, the less diverse the gatekeepers get, I’m concerned that this era of renewed interest in our stories will yield these simplified stories that are stripped of the humanity that allows us to see ourselves in some ways in the perpetrators and to have to engage meaningfully with the perhaps challenging complexities of the Indigenous experience beyond our role as victims...*

*It may mean getting familiar with our cultures and communities and their storytelling traditions, which are complicated and rich, and may at times frustrate the desire for simple cultural signifiers that are easily digested. But they will be more compelling and authentic stories that will stay with audiences for much longer and provoke meaningful conversations and reflections, not just about the Indigenous experience but the settler one as well.”<sup>33</sup>*

— Lisa Jackson, Filmmaker

There remains a place for non-Indigenous artists in this dialogue, one that is better reflective of the history and place:



*“If non-Indigenous Canadian artists want to make work about residential schools, why not tell the part of the story that is yours? The story of survivors is really not yours to tell. But there is a side of the story that you should explore deeply.”*

— Jesse Wentz, Filmmaker

## Indigenous Culture and Intellectual Property (ICIP)



*“Colonial structures say that I own the work that I have done – the way the system works it says that I own it. I don’t own it. Documenting does not give one the right to own it – doing the work does not mean you own the knowledge. Research and documenting should be separated from film making rights.*

*According to copyright, if I invent a story from my own imagination I alone have the right to make that story; and 75 years it goes into the public domain of Canadian law. Anyone can then use it. Our stories are older than 75 years already – so southerners consider it public domain already. We have more responsibility to respect where it comes from and who is telling it. Most important is that we are not robbing future generations of our history but setting it up for future generations to have creative freedom to tell stories, without messing up the original story.”*

— Alethea Arnaquq-Baril, Filmmaker

According to Canadian law, regardless of commercial value, the Copyright Act establishes individual ownership and permission rights for any original creative work.<sup>34</sup> Copyright provides protection for literary, artistic, dramatic or musical works (including computer programs) and other subject-matter known as performer's performances, sound recordings and communication signals.<sup>35</sup> You must apply for a copyright in Canada, pay a fee and it on average is in standing until 50 years past the owner's death.

Although there are cultural and Aboriginal laws that protect confidential Indigenous content, traditional Indigenous knowledge is not inherently protected by Intellectual Property laws. Both international and Canadian copyright laws do not protect intellectual property of communities, only of individuals. Thus, the individual protections afforded by existing Intellectual Property (IP) regimes are said to be inconsistent with Indigenous customs and laws and with the Indigenous worldview, in which "knowledge is created and owned collectively, and responsibility for its use and transfer is guided by traditional laws and customs."<sup>36</sup>

As discussed by Gregory Younging in *Elements of Indigenous Style: A Guide for Writing By and About Indigenous Peoples*, the modern concept of Indigenous Cultural Property (as developed by Indigenous people) is an assertion of contemporary Indigenous cultural reality in a post-contact world preoccupied with ownership designation. "Indigenous Peoples think of Creation as something that includes and sustains all living things. People are part of it and responsible for caring for it. The question of "who owns it" has no context."<sup>37</sup>

"Ownership was bound up with history. Without a written language we nonetheless recorded history and knowledge. Communities, families, individuals and nations created songs, dances, rituals, objects and stories that were considered to be property, but not property as understood by the Europeans. Material wealth was redistributed, but history and stories belonged to the originator and could be given or shared with others as a way of preserving, extending and witnessing history and of expressing one's world views."<sup>38</sup>

As described in a United Nations report, Indigenous peoples' rights to their knowledge and culture differ from conventional intellectual property rights (IPRs) in the following ways<sup>39</sup>:

- Indigenous peoples have collective rights, often vested in clan, family or other socio-political groups;
- Indigenous peoples' cultural heritage and expressions often cannot be associated with a single, identifiable individual creator, author or producer;
- cultural heritage, objects and expressions are managed and owned in accordance with customary rules and codes of practice, and are usually not sold or alienated in ways that conventional IPRs can be;
- Indigenous rights include all forms of traditional knowledge, such as intangible cultural products and expressions, none of which are protected under conventional IPRs law;
- Indigenous peoples' knowledge is transmitted orally, and is therefore not subject to the same requirements regarding material forms that pertain to conventional IPRs law;
- Indigenous traditional knowledge is usually held by the owners and their descendants in perpetuity, rather than for a limited period.

*“We have a unique way of telling our stories by contextualizing them and assigning our set of values; our cinema is collective, and the films we produce belong to the entire community. The idea of copyright is different for us - nothing has sole proprietorship. A creator thus fulfills the role of intermediary and has the responsibility to share and disseminate the work”.*

— Youth Respondent

In Canada, according to Dr. Marie Baptiste:

*“Indigenous knowledge is best protected under sections 35 and 52 of the Constitution Act, 1982. While work is underway in institutions and academia to adequately protect ICIP under Canadian copyrights and patents for intellectual or cultural property laws, which distinguish sharply between artistic works (with copyright and “neighboring rights” to artistic performances), commercially valuable symbols (with trademarks), and useful scientific knowledge (with patents). For example, a patent, a trademark, or a copyright cannot adequately protect a ceremony that uses striking sacred society symbolism to communicate empirical knowledge of medicinal plants...*

*Indigenous knowledge thus embodies a web of relationships within a specific ecological context; contains linguistic categories, rules, and relationships unique to each knowledge system; has localized content and meaning; has established customs with respect to acquiring and sharing of knowledge (not all Indigenous peoples equally recognize their responsibilities); and implies responsibilities for possessing various kinds of knowledge.<sup>41</sup>*

*Indigenous stories have lost much educational and social value due to colonization, which resulted in weak translations from Aboriginal languages to English, stories shaped to fit a Western literate form, and stories adapted to fit a predominantly Western education system. The translations lose much of the original humour and meaning and are misinterpreted and/or appropriated by those who don’t understand the story connections and cultural teachings”.*<sup>42</sup>

## Free, Prior & Informed Consent

Consent has long been a contentious work for Indigenous peoples in Canada. Free, Prior and Informed Consent (FPIC) is one of the cornerstones of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Resolution, and as such is a standard protected by human rights law. While in Canada FPIC generally refers to activity in the resource sector, it is becoming a standard of self-determination increasingly used by Indigenous people regarding any decision-making that affects them, and seen as an emerging standard to upholding Indigenous rights.

“In plain terms, FPIC is knocking on somebody’s door and asking for permission before you come in,” explains Grand Chief (Ed) John. “A central element of FPIC is genuine inclusion, disclosure, and respect for Indigenous Peoples decision-making processes.”

According to the Australia Council for the Arts Protocols for producing Indigenous Australian media arts:

“There is much discussion about obtaining free and informed consent from traditional owners before using traditional cultural expressions, and a useful section on consent. It emphasizes four points:

- allow time for the communication of a proposal and for a decision to be made, maybe more than one meeting;
- remember that other internal factors will influence the decision, not just knowledge brought in from outside;
- be prepared to take ‘no’ for an answer: different kinds of knowledge operating in Indigenous communities may conflict with the requirements of a project;
- respect the views of all factions within a community and make sure consent comes from the appropriate quarter for a particular aspect of a project.”<sup>44</sup>

*“One foundational principle underlies development of Indigenous culture and arts. That is, the need for Indigenous peoples to control their intellectual and cultural property (ICIP) and to manage it in appropriate ways. In order to positively contribute to the integrity of Indigenous cultural life, arts infrastructure must support Indigenous control of ICIP management. An essential part of this support is acknowledgement of local community authority, communal rights over cultural heritage material, and engagement of Indigenous people through consultation and prior informed consent mechanisms. This must be balanced with acknowledgement of the authority of individual artists and encouragement of creativity and innovation.”<sup>45</sup>*



## UNDRIP and Narrative Sovereignty

The overarching vision of the Indigenous screen content creators is supporting narrative sovereignty through storytelling on screen. The most prominent and instructive document to inform the underpinnings of narrative sovereignty is the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), an international human rights instrument adopted by the United Nations General Assembly in 2007 and officially adopted by the Canadian government in 2016. Canada's sitting government, in moving forward with new relationships with Indigenous people, cites UNDRIP as the framework and basis for that relationship. UNDRIP regards the duty of states to protect Indigenous Traditional Knowledge and cultural rights. Several components of UNDRIP affect expectations for Canada's support of Indigenous cultural production and dissemination, including Indigenous peoples rights:

"to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature." And,

"to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions."<sup>46</sup>

## Reframing Relationships



*"I think by moving forward with mutual understanding and relationships protocols, traditional knowledge and our contemporary practices will benefit everyone in many ways because it gives a distinct identify within the nation. It's a form of nation building within our own nations and within a larger collective of Indigenous Indigineity across a global stage."<sup>47</sup>*

— Ryan Rice, Curator and Educator

National associations representing First Nations, Inuit and Métis peoples have developed their own principles for the preservation and protection of Indigenous knowledge and cultures, particularly in research contexts. Key principles to draw from include respect for Indigenous peoples, their customary laws and traditions, recognition of Indigenous ownership and control over their rights to their intellectual and cultural property and heritage, partnership and reciprocal relationships, fair compensation and the sharing of benefits, informed consent, and community empowerment.

The Royal Commission on Aboriginal Peoples (RCAP), the Task Force on Aboriginal Languages and Cultures and the Truth and Reconciliation Commission (TRC) have put forward principles to reframe relationships between Indigenous and non-Indigenous peoples in Canada. RCAP proposes four principles that are not only relevant to the screen protocols, but also illustrate the existing expectations of communities with regard to their view of a renewed relationship with non-Indigenous Canada:

## Recognition

The principle of mutual recognition calls on non-Indigenous Canadians to recognize that Indigenous people are the original inhabitants and caretakers of this land and have distinctive rights and responsibilities flowing from that status. It requires both sides to respect each other's laws and institutions and co-operate for mutual benefit.

## Respect

The principle of respect calls on all Canadians to create a climate of positive mutual regard between and among peoples. Respect for the unique rights and status of First Peoples, and for each Indigenous person as an individual with a valuable culture and heritage, needs to become part of Canada's national character.

## Sharing

The principle of sharing calls for the giving and receiving of benefits in fair measure. It is the basis on which Canada was founded, for if Indigenous peoples had been unwilling to share what they had and what they knew about the land, many of the newcomers would not have lived to prosper. The principle of sharing is central to the treaties.

## Responsibility

Partners in such a relationship must be accountable for the promises they have made, accountable for behaving honourably, and accountable for the impact of their actions on the well-being of the other. Because we do and always will share the land, the best interests of Indigenous and non-Indigenous people will be served if we act with the highest standards of responsibility, honesty and good faith toward one another.<sup>48</sup>

## Ownership, Control, Access, & Possession

The First Nations Information Governance Centre has developed the widely used principles of OCAP (ownership, control, access, and possession), which means that First Nations control data collection processes in their communities, to drive research within communities. Though they focus on information and data, the proliferation of OCAP serves to inform First Nation communities about how to protect their information, which can easily translate into the protection of their stories.

Ownership refers to the relationship of First Nations to their cultural knowledge, data, and information. This principle states that a community or group owns information collectively in the same way that an individual owns his or her personal information.

The principle of control affirms that First Nations, their communities and representative bodies are within their rights in seeking to control over all aspects of research and information management processes that impact them. First Nations control of research can include all stages of a particular research project-from start to finish. The principle extends to the control of resources and review processes, the planning process, management of the information and so on.

First Nations must have access to information and data about themselves and their communities, regardless of where it is currently held. The principle also refers to the right of First Nations communities and organizations to manage and make decisions regarding access to their collective information. This may be achieved, in practice, through standardized, formal protocols. While ownership identifies the relationship between a people and their information in principle, possession or stewardship is more concrete. It refers to the physical control of data. Possession is a mechanism by which ownership can be asserted and protect.<sup>49</sup>

## APPENDIX B: RESOURCES FOR COMMUNITIES



*“The fact is it is their medium – the medium of film and television is not our tradition – that does not belong to us. What does belong to us is our stories and how our stories get told. In that way we should have some control; but it is up to the communities to vet the stories and the companies that come in and to have some creative control so that stories do not get away from them. In the past we allowed producers to do whatever they wanted. In the early days we just did whatever we were told because it did not impact on us as a community; we were getting paid and it didn’t seem to matter to us because it wasn’t our culture. Things have changed in the last 20 years. We have begun to exercise our opinion.”*

— Duke Redbird, Filmmaker and Cultural Elder

## Developing Community Protocols

The information and best practices found in this document can serve as a starting point for developing your own protocols. If a production company approaches you, a protocol can provide guidelines for ethical behaviour and practices and ensure that your community is represented accurately. If you have not already, your community may also wish to develop protocols with respect to Indigenous knowledge, stories and content. Protocols will also help your community understand the possible impacts of a film or television production.

### What can these protocols do?

- ensure respect for your community;
- ensure the protection of your cultural knowledge and traditional stories;
- ensure the community is represented accurately;
- identify respectful ways of working in your community;
- identify the appropriate permissions needed for filming;
- provide safe environments for those being filmed;
- determine outcomes that will benefit your community; and
- guide discussions with film and television crews.

## DEVELOPING PRINCIPLES FOR COMMUNITY PROTOCOLS

1. What are the forms of respect that you expect from people wishing to make a film or television program involving your community, culture, concepts or stories? For example, respect for traditional customs and protocols?

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2. What forms of control over Indigenous content is important for your community during a film or television production? Having involvement in decision-making that concerns your community? For example, is there a role for the Band Council?

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3. How do you treat sacred sites, objects, knowledge or stories involved? What are the sources of permissions in your community? How does someone obtain the necessary permissions to use your knowledge, culture, concepts or stories? For example, do you have an Elder's Council? Traditional Knowledge holders? Language keepers? Are there any existing policies that would have to be followed? What should never be filmed?

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4. Are there any environmental issues that should be taken into consideration when productions are filmed on your land? Are there locations that should not be used?

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## QUESTIONS TO ASK WHEN WORKING WITH SCREEN PRODUCERS

### Whose story is it and who is telling the story?

- o How will the story be told?
- o Who has editorial control over the story?

### • Are Indigenous people in key creative roles?

- o Is the writer, director, or producer Indigenous?
- o Who is advising on the script or other stages of the project?
- o Do you plan to involve Indigenous people in all stages of the project?

### • How will the production be accountable to community / community members?

- o Will the community be providing feedback?
- o Do they get to look at scripts?
- o Does the community get the first screening?
- o Is there going to be a fee?
- o Does the community get copies of footage?

### • Are you proposing to use, adapt or alter traditional knowledge, communally owned material or cultural heritage material in any way?

- o What process will you follow to get consent?
- o What legal issues (if any) are involved? For example, is the Indigenous content intended for the film or television program copyrighted?
- o Will members of the community be asked to sign release forms?

### • How do you intend to collaborate on your project?

- o What benefits will the community get for participation? (see reciprocity below)
- o How will you acknowledge the Indigenous communities where the project is located?

### • Will the work expose confidential, personal and/or sensitive material?

- o Does it reinforce negative stereotypes?
- o Is the use of language and framing of the issue appropriate?

## DEVELOPING RECIPROCITY AGREEMENTS

Your community may wish to benefit from a production company use of your land, and knowledge, particularly if they will be filming on location for an extended period. What follows can serve as the basis for an agreement with the production company.

### Use of Material

- When you define how the filmed material can be used, you can also define a purpose for the community. For example, do you want footage for educational purposes? Promotional purposes?
- Will it be translated into your language?

### Employment Opportunities

- Using staff, crew, and actors from the community
  - o How are they going to be compensated?
  - o Are there job opportunities for catering? Set design? Or costume design?
- Using knowledge keepers and language holders
  - o How will they be compensated for their expertise?
- Are there any training or mentorship opportunities for Indigenous film and television makers?
  - o Are there training or mentorship opportunities for community?

### Possible Revenues

- Are there opportunities for the community to earn revenues from the production?
  - o If so, what legal arrangements need to be put in place eg. licensing, co-ownership, co-production?
  - o Can there be any contributions to cultural or language programs?

## BASIC INFORMATION ON STAGES OF PRODUCTION IN TELEVISION AND FILM

### Stages of Production

There are four phases to film and television production: development, pre-production, production, and post-production.

In the development phase, the producer acquires intellectual property. The producer also hires a screenwriter to write the script. The producer often must obtain the initial financing, which is easier if he/she hires a well-regarded screenwriter and some key members of the cast, the director, and the crew. In pre-production, the producer will hire the Director, Director of Photography, Production Designer and key cast members. A small army of technical people, such as set designers, camera operators, lighting specialists, transportation personnel, etc., work on the motion picture. The producer also will scout locations and approve the final shooting script, production schedule, and budget.

The Director implements the actual shooting of the project, directing the technical crew and cast to bring the script to life. A line producer monitors the physical aspects, oversees the principal shoot, and monitors the budget closely. Under the Director's lead, the visual and sound elements captured during the production are edited together in post-production, at which point are added music and sound and visual effects.



## Key Creative Positions

There are four key creative positions responsible for the creation of film and television programs: producer, director, screenwriter and director of photography. Increasingly, a fifth position has gained in importance in television production: the “showrunner”.

**Producer:** Central to creating any television or film production is the producer. Producers have overall control on every aspect of a film or television project’s production. They bring together and approve the whole production team. Their key responsibility is to create an environment where the talents of the cast and crew can flourish. Producers are accountable for the success of the finished film or program. They steer the project from beginning to completion. The producer often oversees the marketing and distribution of the project, which are ultimately handled by a distribution company. Once rights sit with a distribution company, the producer no longer oversees marketing and distribution.

**Director:** The director is the person who actually makes the film and is the major creative force behind the project. The director is responsible for visualizing and defining the style and structure of the film, then bringing it to life. The Director acts as the link between the production, technical and creative teams.

**Director of Photography:** The DOP is responsible for creating the visual identity, or look, of the film. They manage all aspects of the filming and work with the Director, camera crew and lighting department to achieve the desired look.

**Screenwriter:** The Screen Writer transforms a basic story idea into a script for use during the production. They are responsible for researching and developing story ideas and for writing the screenplay.

**Showrunner:** In television, this position combines the roles of screenwriter and producer. Showrunners write and produce their own series for television networks. This is the person ultimately responsible for overseeing every aspect of the making of the show.

## Unions and Guilds in the Canadian Film and Television Production Sector

The term “union” in the creative industries describes labour organizations that represent technical personnel, such as camera operators and directors of photography, and the term “guild” describes labour organizations that represent creative people, such as writers, producers, and directors.

ACTRA is the Alliance of Canadian Cinema, Television and Radio Artists. It represents more than 23,000 professional performers working in English-language recorded media in Canada including TV, film, radio and digital media.

ARRQ is the Association des réalisateurs et des réalisatrices du Québec. It represents directors in Quebec.

DGC is the Directors Guild of Canada, which represents over 4,800 key creative and logistical personnel in the screen-based industry covering all areas of direction, design, production and editing.

IATSE is the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada. It represents virtually all the behind-the-scenes workers in crafts ranging from motion picture animator to theater usher.

SARTEC is the Société des auteurs de la radio, télévision et cinéma. It represents French-language writers in all audiovisual sectors.

SCGC is the Screen Composers Guild of Canada. It is the national association of professional music composers and producers for film, television and media.

WGC is the Writers Guild of Canada, which represents more than 2,200 professional English- language screenwriters across Canada.<sup>50</sup>

## Releases

The EntCounsel website provides a summary for obtaining Copyright Permission for Film. What follows is an overview of the types of releases that may be expected by the community or your citizens.

### Location/site release

Obtain a release from the owner of the property to provide you with copyright permission and permit you to film your story there.

### Film and television footage clearance

Clearance is required from both the copyright holder (such as the studio) and the actor. The footage license agreement should have an outline of:

- the rights being granted;
- in what forms of media will it be used in (tv, internet, DVD rights);
- term, territory, license fee;
- who is responsible for clearances in the footage (actors, music, synchs etc.);
- who retains copyright in the footage;
- obtain warranties from licensor of footage;
- they have the rights to the footage (including all rights from all actors, musicians, models or others appearing in the footage);
- the footage is origina;
- it does not infringe the rights of any third party;
- get an indemnity from the licensor.

## Releases

Written releases must be obtained from all individuals who are recognizable in the production or whose name, image or likeness is used.

- Minors – If the individual is minor, the release must be legally binding and must have parental consent (parents sign release)
- Deceased – If the recognizable or identifiable person is deceased, then you must obtain a release from the personal representative of that person
- Background shots – Releases are not necessary if the recognizable person is part of a crowd or background shot and his/her image is not shown for more than a few seconds of given special emphasis (ie. But make sure they are not being associated with any defamatory remarks).

## Character clearances

All characters based partially or wholly on real people (living or dead) must be cleared.

## ETIQUETTE FOR FILMING IN FIRST NATION COMMUNITIES

### Sample Code of Conduct

The following Code was developed for use during the filming of APTN's *Moosemeat & Marmalade*. Communities can use the ideas here to adapt their own Code of Conduct, depicting community expectations of production companies.

- First Nation communities have been studied to death and exploited by outside interests yet remain open to collaboration. It is best to utilize a relationship-building approach. Be open to feedback from the community and recognizing local expertise is a good way to earn the community's respect and cooperation. Office staff should establish these relationships early on, before the field crew arrives. Be prepared to follow up with thoughtful gestures like thank you cards, phone calls, email reminders etc. Assure locals that we will contact them regarding airing dates and be willing to follow up on commitments.
- It is commonplace now to acknowledge the territory we are in so early on during any welcomes, speeches or group meetings, it's good for someone representing the crew to do this publically. Once it's established by a group representative there is usually no need for other crew-members to repeat the acknowledgement.
- When feasible, we have to be open to incorporating local history, events, and landmarks of significance that may enhance our story or better reflect the local culture. The office crew will try to identify these things in advance to determine whether it's a fit for our storyline but directors should also do their best to be aware of the local character of a community or territory.

- Take the time to learn traditional names if that's what are to be used in the final credits. It's our responsibility to know if someone is a head chief or "wing chief" or any other title and to get the proper spelling of traditional names. To leave a nameplate off from any scene involving a respected community member is a faux pas.
- There is diversity in our communities ranging from very traditional political structures (as in the case of hereditary systems) to more laid-back communities (as in the case of NWT). All communities still have protocols in place but they are not all the same. Producers will do their best to find out the basics ahead of time and let the crew know about any potential surprises. Indigenous crewmembers may also be willing to share their perspectives with interested crewmates.
- Ceremonies can be spontaneous so cameras must be flexible. It can be considered rude to ask an elder to repeat a prayer or to have them continually repeat gestures, as this might be seen as controlling or patronizing behaviour. Filming of certain ceremonies is forbidden but most ceremonies that happen on set are fine to film. We can always check with the practitioner when in doubt.
- Don't assume that everyone has time for us; some individuals who work for their nations are often extremely busy and relied upon heavily by their people. Rather than the old line of "it's good exposure", it's better to remember that we might be imposing on their normal duties. We must always be friendly, courteous, and gracious, especially towards Elders and leaders.
- Some individuals may be familiar with film crews, others may not be, so take the time to explain the filming process and the importance of timeliness and organization to a film crew. We do our best to explain this upfront in the early stages of planning with communities but it's still always good to start off each visit with an orientation that explains our process in each community we visit.
- Like everywhere else, there are often political factions. Be courteous but don't get drawn into any internal conflicts. We are there to present the community to our audience through the stories they are willing to share with us and we aim to do this with as much integrity as possible. That is our bottom line.
- Regarding socializing, remember that most communities face addiction problems and some remote communities may even have alcohol bans or by-laws. While crew can feel free to enjoy alcoholic beverages after a workday, public drunkenness within a FN community, getting drunk with community members, or appearing intoxicated or hung-over on set is a problem that will be addressed. Aside from this, please relax and use discretion and common sense.
- Small gifts or tokens of appreciation to anyone helping our production who are not getting paid, is standard in most communities, so production should always carry swag and small gifts. Gifts for key leaders or elders can be more significant than swag i.e. a blanket or small box of tea etc. In certain communities protocols such as the offering of tobacco to involved elders, is practised as part of the decision making process.

### Sample Protocol for Respectful Action on Set

Director Darlene Naponse and the producers of *Falls Around Her* (2018) developed the following protocol for respectful action :

How do we work with respect towards each other and practice a mino dimadawin?

All cast and crew have the right to be free of harassment, discrimination, sexism, and threatening or disrespectful behavior from any other cast or crew.

We thrive to work and walk responsibly, professionally and caringly at all times.

Work and walk with a “Good way of life”. Honour the seven grandfathers teachings Honesty – Wisdom - Respect - Bravery - Humility – Truth - Love

We request that you do not wander outside the location. Non members/residents cannot use the land (take from/alter/disturb/desecrate) or ride, walk, etc. outside location area without permission.

The lands of Atikameksheng Anishnawbek are collectively governed by the community. It is not open to public.

When working in the community and the land, please remember to engage and seek permission. Practice reciprocity, acknowledge when needed, respect and ask about protocols.

Collaborating, collectively working with respect!

Mino bimosdawin – good life

### Sample Filmmaker’s Code of Professional Responsibility

The following production Code of Professional Responsibility was developed by the Nunavut Film Commission and is shared with both the public, community and production company regarding filming in Nunavut. Communities may want to develop their own codes of responsibility :

To our Company: You are guests and should treat this location, as well as the public, with courtesy. This notice has been attached to the filming notification that was distributed to this neighborhood. We have notified and received permission to film from the local Hamlet or HTO office as well as the regional Land Claims organization.

We shall hire and have present at all times during our stay in Nunavut, someone who is fluent in Inuktitut and/or Inuinnaqtun so that effective and constant communication is possible with the local community and Inuit can express their concerns whenever needed.

We shall be sensitive to community rules regarding alcohol and drugs and shall try in every way possible not to disrupt community life more than necessary and only as agreed.

We shall respect Inuit elders, community leaders and elected officials and we will make every attempt to collaborate with them openly and harmoniously.

To this end we shall make available to property owners and to each community and its representatives a synopsis translated into the appropriate local language so that communities can understand what we are attempting to accomplish.

1. When filming in a neighborhood or business district, proper notification is to be provided to each merchant or resident who is directly affected by the company (this includes parking, traveling shots, base camps, meal areas, etc.)
2. Production vehicles arriving on location in or near a residential neighborhood shall not enter the area before the time stipulated in the permit. They should park one by one, turning off engines as soon as possible. Cast and crew shall observe designated parking areas only. Do not park production vehicles in, or block driveways without the express permission of the municipal jurisdiction, or the driveway owner.
3. Do not trespass onto neighbors' or merchants' property. Remain within the boundaries of the property that has been permitted for filming.
4. Moving or towing of the public's vehicles is prohibited without the express permission of the municipal jurisdiction or the owner of the vehicle.
5. Cast and crew meals shall be confined to the area designated in the location agreement or permit. Use company-supplied receptacles for the disposal of all napkins, plates and coffee cups that are used in the course of the working day. All catering, craft service, construction, strike and personal trash must be removed from location.

6. Removing, trimming and/or cutting of vegetation or fauna is prohibited unless approved by the permit authority or the property owner.

7. All signs erected or removed for filming purposes will be removed or replaced upon completion of the use of that location unless otherwise stipulated by the location agreement or permit. Also, remember to remove all signs posted to direct the company to the location.

8. Every member of the cast and crew shall keep noise levels as low as possible.

9. Observe designated smoking areas and always extinguish cigarettes in butt cans.

10. Crew members shall not display signs, posters or pictures on or in vehicles that do not reflect common sense or good taste (i.e., pin-up posters...). Cast and crew will refrain from the use of lewd or improper language.

11. Cast and crew will avoid contact of any kind with local dogs and will not disturb or handle in any way hunting gear, sleds, objects and artifacts in or near the premises being filmed or on the land as they travel from site to site.

## Sample Community Safety Protocols

Students of the Indigenous Independent Digital Filmmaking program at Capilano University developed these Community Safety Protocols:

1. Develop a release form, which stipulates that the footage of any interviews of knowledge holders must specify the exact one time use of the footage; all additional future uses of the footage require additional releases;
2. The First Nations band office must be notified prior to contacting knowledge holders and any band filming protocols and additional safety protocols must be adhered to;
3. All original footage is to be given to the knowledge holder;
4. A copy of all final projects must be given to the knowledge holder and band office;
5. The knowledge holder has the right to take back their release, in the event that this happens, their information must be excluded from the final project and all original footage must be given to the knowledge holder;
6. The knowledge holder is encouraged to have a representative present to witness their testimony;
7. The knowledge holder will be compensated with an honorarium no less than \$200, this amount will be negotiated for multi-day interviews (there may be exclusions for student films);
8. The knowledge holder may request the interview site of their choice;
9. If the interviews are of an emotionally charged subject such as childhood trauma, the interviewer will ensure that the subject has qualified Provincially recognized counselling support (approved by the Indian Residential School Survivor Program or similar organization of standing) present during the interview and for follow up; if need be, at the expense of the interviewer's production company;
10. The filmmakers will leave the knowledge holder's interview location in the exact same condition as it was upon arrival, down to the smallest detail. Photographs of the interview location will be taken upon arrival to cross reference at departure. In consideration, that most knowledge holders are elders, extreme attention to detail on returning the location to original condition will be documented, a cleaning fee of a minimum of \$150 will be charged if the location is not left in the exact same condition;
11. All location and other request approvals will be in writing to protect both parties;
12. Producers will ensure that cultural protocols are adhered to:
  - 1) environment free of sexual, gender and racial harassment;
  - 2) time and respect given to any need to stop the interview in order to engage in ceremony as a wellness procedure;
  - 3) not filming any events specifically identified as restricted or forbidden. On this last point, there are standard protocols that do not allow the filming of ceremonies, where there is a question regarding permissions, the producer must follow the strictest allowance for filming permissions, meaning DO NOT film ceremonies.



## END NOTES

- <sup>1</sup> This term is used to refer to both Indigenous creators (writers and directors) and Indigenous producers of screen-based content.
- <sup>2</sup> Regan Ried, Bringing Indigenous voices to the forefront, Playback, May 2018.
- <sup>3</sup> Marcia Nickerson, "Characteristics of a Nation-to-Nation Relationship: National Dialogue Discussion Paper", Institute on Governance, November 2017. p 2
- <sup>4</sup> Nyla Innuksuk, "How 'Atanarjuat' taught a new generation of Inuk filmmakers about possibility — and responsibility" CBC Arts · September 20, 2017.
- <sup>5</sup> Lawrence Abbott, "Interviews with Loretta Todd, Shelley Niro and Patricia Deadman": The Canadian Journal of Native Studies XVIII, 2 (1998): p 339.
- <sup>6</sup> FNHA'S Policy Statement on Cultural Safety & Humility: "It Starts with Me" <http://www.fnha.ca/documents/fnha-policy-statement-cultural-safety-and-humility.pdf>
- <sup>7</sup> Marcia Nickerson, Supporting & Developing the Indigenous Screenbased Media Industry in Canada: A Strategy, prepared for the Canada Media Fund, December 2016. p 23
- <sup>8</sup> Communications MDR: Developing a Media Production Guide to Working with First Nations, Métis and Inuit Communities in Canada: A Background Report, imagineNATIVE, August 15, 2017. p 13.
- <sup>9</sup> Maurie Alioff and Susan Schouten Levine, "The Long Walk of Alanis Obomsawin A 1987 Cinema Canada interview with the filmmaker", Point of View Magazine published May 3rd, 2016.
- <sup>10</sup> Ontario Arts Council: Indigenous Arts Protocols, October 2016 [http:// www. arts.on.ca/oac/media/oac/news/2016/indigenous-Arts-Protocols.pdf](http://www.arts.on.ca/oac/media/oac/news/2016/indigenous-Arts-Protocols.pdf)
- <sup>11</sup> Younging p45
- <sup>12</sup> Younging p 97
- <sup>13</sup> Dr. Ella Henry and Melissa Wikaari, THE BROWN BOOK: Māori in Screen Production, Ngā Aho Whakaari: Association of Māori in Screen Production, July 2013. P 62
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- <sup>15</sup> Communications MDR: Developing a Media Production Guide to Working with First Nations, Métis and Inuit Communities in Canada: A Background Report, imagineNATIVE, August 15, 2017. p 21
- <sup>16</sup> Canadian Council for the Arts. Supporting Indigenous art in the spirit of cultural self-determination and opposing appropriation. Nd. p 2.
- <sup>17</sup> Goulet, Danis, and Kerry Swanson. Indigenous Feature Film Production in Canada: A National and International Perspective. imagineNATIVE Film + Media Arts Festival. 2013. p. 43-44
- <sup>18</sup> Canadian Council for the Arts. Supporting Indigenous art in the spirit of cultural self-determination and opposing appropriation. Nd. p 3.
- <sup>19</sup> Marie Mumford, Association for Native Development in the Performing and Visual Arts RCAP submission
- <sup>20</sup> CMF Strategy p 16
- <sup>21</sup> Royal Commission on Aboriginal Peoples (RCAP). People to People, Nation to Nation. Looking Forward, Looking Back: The Royal Proclamation.
- <sup>22</sup> Canada Council for the Arts. "Aboriginal Arts Research." October 12, 2009. [http:// www.canadacouncil.ca/publications\\_e/research/art\\_abo/tj128945779310055866.htm](http://www.canadacouncil.ca/publications_e/research/art_abo/tj128945779310055866.htm)
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- <sup>24</sup> Erin Hanson, "The Sixties Scoop & Aboriginal child welfare", UBC. Accessed from: [https://indigenousfoundations.arts.ubc.ca/sixties\\_scoop/](https://indigenousfoundations.arts.ubc.ca/sixties_scoop/) Accessed November 20 2018.
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- <sup>29</sup> Ontario Arts Council: *Indigenous Arts Protocols*, October 2016 <http://www.arts.on.ca/oac/media/oac/news/2016/Indigenous-Arts-Protocols.pdf>
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- <sup>33</sup> Lisa Jackson, "Giving Indigenous storytellers space to set the record straight". *Globe and Mail*, August 27, 2018.
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- <sup>41</sup> Dr. Marie Battiste, *Indigenous Knowledge: Foundations for First Nations*. University of Saskatchewan, Saskatoon. 2005 p 8.
- <sup>42</sup> Jo-ann Archibald, *Indigenous Storywork: Educating the Heart, Mind, Body, and Spirit*, UBC Press, 2008, pp 3-7.
- <sup>43</sup> Agnes Portalewska, *Free, Prior and Informed Consent: Protecting Indigenous Peoples' Rights to Self-Determination, Participation and Decision-Making*. *Cultural Survival Quarterly Magazine*: December 2012. <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/free-prior-and-informed-consent-protecting-indigenous>
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- <sup>45</sup> Terri Janke and Robynne Quiggin, *Indigenous cultural and intellectual property: the main issues for the Indigenous arts industry in 2006*, prepared for Aboriginal and Torres Strait Islander Arts Board, Australia Council, May 10, 2006, page 9.
- <sup>46</sup> United Nations Declaration Rights of Indigenous Peoples Resolution adopted by the General Assembly [without reference to a Main Committee (A/61/L.67 and Add.1)] 61/295. See Appendix D for additional UNDRIP references.
- <sup>47</sup> Ontario Arts Council: *Indigenous Arts Protocols*, October 2016. <http://www.arts.on.ca/oac/media/oac/news/2016/Indigenous-Arts-Protocols.pdf>
- <sup>48</sup> Royal Commission on Aboriginal Peoples. "People to people, nation to nation: Highlights from the report of the Royal Commission on Aboriginal Peoples". Minister of Supply and Services Canada 1996.
- <sup>49</sup> "OCAP® is a registered trademark of the First Nations Information Governance Centre (FNIGC)" Please refer to (<https://fnigc.ca/OCAP>) and for further clarification, please watch this informative video.
- <sup>50</sup> Maria De Rosa and Marilyn Burgess (Communications MDR), *Developing a Media Production Guide to Working with First Nations, Métis and Inuit Communities in Canada: Annexes to Background Report*, August 15, 2017.

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