



Informed Consent 2.0

Multimedia Informed Consent Protocol

- DEVELOPED BY -
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OVERVIEW

Lessons on consent from the global community

As a documentary filmmaker and non-profit executive, I have worked internationally with diverse communities to create equitable platforms to share grassroots solutions to global problems through the medium of documentary film. Informed by practices in the mainstream film industry, as well as the need of a prudent Board of Directors to mitigate the legal risk of this work, securing consent for the use of footage obtained was essential. With the majority of the organization's members involved in education and social/environmental justice research, we applied our academic understanding of "informed consent" to a piece of paper, and translated it into the appropriate languages for the communities where we would be filming.

These pieces of paper proved to be counter to obtaining good footage and, more importantly, meaningful informed consent. Even when translated into the local language, we found the following to be generally true and problematic in our work:

- *Most people had difficulty reading and understanding the contract, and some would pretend to comprehend to save face and avoid being labelled as illiterate.*
- *Most people did not fully understand their rights or the rights they were waiving, even if they were able to read the contract.*
- *Most people became cautious and/or reluctant to participate when asked to sign something, which meant they were less likely to be comfortable enough to share their full truth on camera, particularly in cultures where signing a document is not how contracts/agreements are typically made. Signing a document, for some participants, also tapped into the legacy of historical colonial and other legal processes that had negatively impacted their community.*
- *Asking someone to sign a contract before filming disrupted the natural process of bonding and developing a relationship of trust with the participant and imposed an unhelpful and unintended neocolonial power dynamic.*

As such, we endeavoured to create a protocol that would address the barriers to both equity and obtaining good footage that the standard sign-this-piece-of-paper practice produced.

In developing version 2.0 of the informed consent protocol for the non-profit organization, we used the following principles to guide the contract creation:

1. *The participant must fully understand their rights.*
2. *The contract should be an exchange: not only rights waived, but also rights granted.*
3. *Offering flexibility creates trust and reciprocity, which increases integrity and equity, while also creating the conditions necessary for good filmmaking.*

In practical application, this meant the contract should: use common language and avoid legalese and jargon, explain what the filmmaker is offering the participant and what the participant is offering the filmmaker, and be made in the way that is most appropriate for the participant (with the participant defining what is “appropriate”).

This third point, *making the contract in the way most appropriate for the participant*, led us to the most important change in the informed consent protocol: **we started making consent contracts orally with participants**. Regardless of literacy and culture, most people seemed more comfortable having a conversation about their rights, including those they were waiving, than being presented the same information on paper and being asked to sign the document. This proved particularly helpful in overcoming the barriers presented by the paper format for participants with visual impairment, low levels of literacy, and cultures that rarely required people to sign documents (and/or where signing has negative association, i.e., corruption, colonial history, etc.).

We adapted and began filming the first clip as the contract with every participant, and archived these consents as we would the paper versions. In this process, the filmmaker would describe the purpose of the film, the rights of the participant, and the intended uses, as well as the potential unintended uses of the film, and conclude by asking if the participant has any questions or if they are happy to proceed with those terms.

We also developed the contract to embed additional rights to promote equity for film participants that strayed from the industry norm. These rights included:

- *To participate in their preferred language and preferred medium of exchange (i.e., on camera, off camera, still photos only, audio only, etc.)*
- *To remain anonymous*
- *To withdraw their consent at a future date*
- *To amend their footage at a future date*

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- *To participate in the edit review process before the film is finalized*
- *To understand how to contact the filmmaker for more information or to change the status of their consent*
- *To understand expressed intent for use as well as unintended uses that may arise*
- *To understand the risks and benefits of their participation*

Having recently joined the Arts and Science Online Multimedia Team, it is my hope that this updated informed consent process may offer a means to improve the current practice and standard of our department and, potentially, the University.

I look forward to further collaboration and development to continue to advance the accessibility, equity, and integrity of our informed consent protocol, and encourage you to contribute to this process and tailor it to support your own work requiring informed consent. Please feel free to contact the Multimedia Team at asomm@queensu.ca with your ideas, recommendations, questions, and feedback.

Best regards,



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RATIONALE

Why Queen's needed to improve its multimedia informed consent protocol

Given the aforementioned problems, limitations, and barriers to equity presented by the just-sign-your-rights-away format, the industry standard of "informed consent" is no longer (or was never) adequate or appropriate. Academia generally, and Queen's University specifically (and, in fact, all of the multimedia universe) should find ways to ensure the most rigorous ethical and equitable informed consent protocol is utilized - one that puts participants first while still maintaining the necessary legal assurances.

Particularly in consideration of Queen's commitments to reconciliation, equity, and accessibility, this version 2.0 of the informed consent protocol is appropriate for **everyone**. This includes members of the community; vulnerable, marginalized, and/or at-risk persons; and also members of the academia. It is essential that we (as academics, filmmakers, instructors, professionals, human beings) put biases and assumptions about a participant's capacity to consent aside, and support an equitable process for any and every participant to give informed consent, particularly because we are not in a position to know/judge/assign a participant's capacity (think: unseen and/or undisclosed disabilities, histories, identities, etc.). Moving toward a protocol that includes everyone is a win all around and sacrifices nothing in terms of legal protection. It's even an environmental and economic win for the department: avoiding printing paper contracts saves both money and trees!

FOR COMPARISON: VERSION 1.0

Previous multimedia release form



PHOTOGRAPHY/VIDEOGRAPHY RELEASE FORM
Queen's University at Kingston

I hereby grant to Queen's University at Kingston (the 'University') the right to reproduce, use, exhibit, display, broadcast, distribute and create derivative works of the photographed and/or filmed images of me and presented content, taken during a live lecture, for use by the _____ Department and the delivery of any associated courses and programs.

Please check all that apply:

This grant includes, without limitation, the right to publish such images in:

- the [PROGRAM/COURSE/DEPARTMENT NAME] and related program/course site(s) within the University *Learning Management System* (access restricted to Queen's University students, staff and faculty)
- the Queen's University [PROGRAM/COURSE/DEPARTMENT NAME] website (public access)

Name (printed): _____

Signature: _____

Date of Agreement: _____

Arts and Science Online
Queen's University
Dunning Hall
94 University Avenue
Kingston, Ontario, Canada K7L 3N6
(613) 533-3322

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Preamble

Prior to being offered the new contract in either format, the filmmaker should provide the participant(s) with a business card with contact information and advise the participant(s) prior to recording of the following:

- Queen's University has an informed consent policy that requires all participants to be notified of their rights prior to obtaining consent for release of the photographed/ filmed/ recorded image/ audio.
- This consent can be made orally on camera/ audio recording or by signing a paper contract, or should a participant require the consent in an alternative format, i.e., the use of assistive technology or proxy, their request(s) will be accommodated wherever possible.

Written Contract: Print Format

Still offered for participants who choose to consent this way, the revised paper contract has been amended as follows:

MULTIMEDIA RELEASE FORM
QUEEN'S UNIVERSITY AT KINGSTON

This Release Form requests your permission to use your image/audio from multimedia footage recorded by Queen's University. Queen's University has an informed consent policy which means that before agreeing to this release, we want you to understand your rights.

You have the right to:

- Participate in your preferred language and preferred medium of exchange (i.e., on camera, off camera, photos only, audio only, etc.)
- Remain anonymous
- Withdraw your consent at a future date
- Amend your footage at a future date
- Participate in the video edit review process before the film is finalized
- Know how to contact the Multimedia Team for more information or to change the status of your consent
- Understand expressed intent for use as well as unintended uses that may arise
- Understand the risks and benefits of your participation

This contract may also be made orally on camera/audio recording. Should you have any questions about this form, or would prefer to receive this form in an alternate format, please make your request(s) known to the filmmaker.

Please check all that apply:

I consent for my images/audio to be used:

- With restricted access** (limited to Queen's University students, staff, and faculty) by

DEPARTMENT/PROGRAM/COURSE NAME

and related program/course site(s) within the University *Learning Management System*

- With public access** on the Queen's University _____ website
DEPARTMENT/PROGRAM/COURSE NAME
- With public access** on the Queen's University website
- With public access** on Queen's University social networking sites like Facebook, Twitter, Instagram, YouTube, Vimeo, etc.

[PLEASE COMPLETE THE REVERSE SIDE]

INFORMED CONSENT 2.0

Pertaining to your rights outlined in this agreement, please make any additional requests known here:

- I wish to remain anonymous
- I wish to participate in the edit review process
- I wish to receive a copy of the final multimedia product
- Other: _____

PARTICIPANT SIGNATURE

Participant Preferred Name: _____

Additional Participant Name(s): _____

Title by which the Participant would like to be recognized: _____

Phone Number: _____ **Email Address:** _____

Participant prefers to be contacted by: **Phone** **Email**

Participant Signature: _____ **Date of Agreement:** _____
DD/MM/YYYY

Pronoun: **She/her** **He/Him** **They/Them** **Other:** _____

PROXY/GUARDIAN SIGNATURE

If signed by **proxy, guardian, or other designated person** as requested by the Participant or required for legal purposes (i.e., on behalf of a minor or person who cannot consent as defined by law):

Proxy/Guardian Name(s): _____

Relationship to Participant: _____

Proxy/Guardian Signature: _____ **Date of Agreement:** _____
DD/MM/YYYY

MULTIMEDIA SIGNATURE

Signature of filmmaker or member of Queen's University:

Multimedia Name(s): _____

Multimedia Signature: _____ **Date of Agreement:** _____
DD/MM/YYYY

Oral Contract: Video/Audio Format

For participants who choose to have their consent recorded on camera, the filmmaker should review the contents of the agreement per the text that appears on the paper form and ask the participant to provide all the same information that is requested on the paper form.

The filmmaker (or line supervisor / camera assistant) can record the information in their notes (or a paper copy of the contract if preferred), adding the information “On Camera/Audio Recording Consent - File #” detailing the video/audio file number of the consent. For transparency in the contract, the filmmaker should also state their own name, the date, and any other people present for the verbal consent.

When conducting on camera consents, the filmmaker should be sure to receive accurate spelling of the participant’s name, title, contact information, etc.

The same process should apply in cases where the agreement is made a proxy / guardian/other designated person on behalf of a participant.

Oral Contract: Sample Script

Below is a sample suggested script. It’s important that this process is organic and does not feel contrived, detached, or too formal, as this (similarly to the written contract) hinders the filmmaker-participant relationship building process. As such, all filmmakers undertaking this process should be familiar with the informed consent protocol and the contents of the agreement to ensure its full essence and parameters are captured on camera/audio recording.

FILMMAKER

I’m now recording.

Thank you for participating in this [PROJECT NAME]. The purpose of this project is to [DESCRIBE PROJECT GOALS, TONE, PURPOSE]. Our intended audience and use of the film is [DESCRIBE INTENDED DISTRIBUTION AUDIENCE AND CHANNELS], however as this content is created to be shared online, there is always the possibility that this film may be used for unintended purposes by other parties beyond our control.

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Queen's University is committed to an informed consent protocol, which means that before agreeing to participate in this multimedia project, we want you to understand your rights. You have the right to:

- Participate in your preferred language and preferred medium of exchange (i.e., on camera, off camera, photos only, audio only, etc.);
- To remain anonymous;
- To withdraw your consent at a future date;
- To amend your footage at a future date;
- To participate in the video edit review process before the film is finalized;
- To know how to contact the Multimedia Team for more information or to change the status of your consent;
- To understand expressed intent for use as well as unintended uses that may arise;
- And to understand the risks and benefits of your participation.

This agreement can also be made in writing if you prefer, or by audio only, or on camera, or should you prefer to make this contract in another format, please let us know and we will do our best to accommodate your request.

Do you have any questions about this?

PARTICIPANT
[YES/NO]

FILMMAKER
[ANSWERS QUESTION(S)]

AND/OR

Great. If you are willing to proceed with the agreement, please let me know to which of the following distribution uses you agree. You can choose any or all of the options.

Do you consent to your images/audio to be used:

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- With restricted access** (limited to Queen’s University students, staff, and faculty) by [PROGRAM/COURSE/DEPARTMENT NAME] and related program/course site(s) within the University *Learning Management System*
- With public access** on the Queen’s University [PROGRAM/COURSE/DEPARTMENT NAME] website
- With public access** on the Queen’s University website
- With public access** on Queen’s University social networking sites like Facebook, Twitter, Instagram, YouTube, Vimeo, etc.

PARTICIPANT

[AGREES/DISAGREES]

FILMMAKER

Thank you. Are there any other requests you’d like to make, for example, remaining anonymous, wishing to participate in the edit review process, and/or receiving a copy of the final multimedia product? If there is anything else you’d like us to be mindful of, please feel free to share that information here.

PARTICIPANT

[MAKES ANY CONDITIONS OF CONSENT OR ADDITIONAL REQUESTS KNOWN]

FILMMAKER

Thank you. We will certainly honour these requests.

For the record of this agreement, dated [DATE], in the presence of [NAME WITNESSES], and myself, [FILMMAKER’S NAME], could you please state your full name as you would like to be recognized in the film, as well as any additional names you’d like us to include, and your title.

PARTICIPANT

[STATES NAME(S), TITLE]

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FILMMAKER

Perfect. Could you tell us your phone number, your email address, and whether you prefer to be contacted by phone or email?

PARTICIPANT

[STATES PHONE NUMBER, EMAIL ADDRESS, PREFERENCE]

FILMMAKER

Wonderful, thank you for your agreement! If you have any further questions about this contract or ever need to get in touch with us, you can do so with the contact information on the business card we gave you. Now let's move on to the fun stuff!

[IF GUARDIAN/PROXY IS REQUIRED, ADD THEM TO SAME CLIP
WITH THEM STATING THEIR NAME AND RELATIONSHIP TO PARTICIPANT]

[END CLIP; RECORD FILE NUMBER]

Contract Archives: Best Practices for File Storage

As a general best practice to cut down on editing/file organizing time, consents in video format should be a separate file clip and should not precede interviews/footage without a file break. This file should remain unedited and unaltered from its original version, and should be archived in a separate folder for all consents received relating to the project. Consent and restriction notes should be added to each file properties so that even if the source folder with consent isn't readily available the photo/video editor has the necessary information on how to proceed with the file.

The consents folder should be stored by the department/unit alongside the course files on Queen's University server/designated file storage, and backed up on Queen's University external hard drive(s), and should also contain digitized (scanned) versions of any consents received in print format. These consent documents should not be downloaded onto personal computers or devices.

Opt-out Practices for Filming Public Spaces/Large Group Events

There are times when filming in public spaces and/or large group events where it is not possible to conduct the informed consent protocol with each and every individual. As such, here are some guidelines for more ethical and equitable opt-out practices for public/large group settings to give potential participants more information to allow them to choose whether or not to participate.

ADVANCE NOTICE

Whenever possible, provide audience members/group participants advance notice that filming will be taking place at the specified date(s), time(s), and for the specified purpose(s), including how the final materials will be used and where they will be distributed (with restricted access/with public access). Also inform participants that should they not wish to be seen/heard on camera or wish to remain anonymous, to make this information known to the filmmaker at or in advance of the event (so that filmmakers can be sure to situate participants out of any shots), and, if applicable, provide participants an alternative way to participate (i.e., online, via teleconference, etc.).

Participants should also be given a timeframe within which to make their opt-out known, i.e., within 48 hours after the event. If a request is received outside of the specified timeframe, best efforts should still be made to accommodate the person's request whenever possible.

For example, in advance of filming a live-streamed tutorial session, we have provided course instructors the following text to advise students of the filming a week or more ahead of the scheduled session date:

This tutorial session will be filmed and streamed live via YouTube, and this recording may be used and/or referenced within the course (or a similar course) in the future. If you wish to participate in person but would prefer to remain off camera, or wish to remain anonymous, please speak with any of the team who will be filming the session, and they would be happy to accommodate your requests. Alternatively, you may choose attend this session via the live streaming link, and can participate and interact via the live chat feed which will be monitored during the event. If you require any accessibility accommodation to participate, please email asomm@queensu.ca ahead of the scheduled sessions.

POSTED SIGNAGE

When recording a session where individual consents are not being documented, posting signage to inform people who may walk into a recording is advisable. If filming in a public space outdoors, this can be posted on a sandwich board at the perimeter of the shot, or if filming indoors, this can be posted to the door of the lecture hall or building where filming is taking place.

Signage should be tailored to the particular filming, however here is a sample to use as a guideline:

<p style="text-align: center;">PLEASE BE ADVISED: FILMING/RECORDING IN PROGRESS</p> <p style="text-align: center;">PROJECT NAME: COURSE ### Tutorial Session with Instructor Name</p> <p style="text-align: center;">INTENDED USE & DISTRIBUTION: Live-Streamed Tutorial Session for COURSE ### students broadcasted live on YouTube</p> <p style="text-align: center;">FOR MORE INFORMATION, PLEASE CONTACT: Arts & Science Online Multimedia Team asomm@queensu.ca (613) 533-6000</p>
