

Bridging the Divide: Integrating Privacy Sensitivity Audits into the Archival Appraisal Process

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Introduction

Professional archival ethics call upon archivists to maintain a careful balance between providing access to archival materials while protecting the privacy of the individuals whose lives are reflected within the records.

Archival institutions may also be subject to legislative restrictions that protect privacy, such as FERPA, HIPAA, and other federal and state privacy laws and regulations.

Nevertheless, archivists often do not have a good sense of what records in their collections are subject to privacy concerns and regulations because of the high level of archival description and the need for minimal processing.

This poster provides practitioners with a framework for understanding the key issues involved in privacy protection and privacy law requirements and a common-sense solution for assessing privacy concerns and issues.

Privacy Considerations

Below are common types of information that create privacy concerns and questions that should be asked from an ethical and legal standpoint.

Common Privacy Concerns Present in Archival Records

- Personal identifying information (i.e. Social Security Numbers, drivers license numbers);
- Private Financial information (i.e. bank accounts, credit cards);
- Personal/private expressions (i.e. personal correspondence, diaries, photos)
- Health Information (i.e. patient records, medical information, test results)
- Student records (i.e transcripts, grades)

Ethical questions to consider:

- Did the creator intend for the information to be shared publicly via the reading room or to a wider audience via digital reformatting and sharing on the web?
- What is my responsibility to the donor or to the records' subjects?
- What is my responsibility to make these records accessible to the public?
- Should I make these records accessible or should I restrict access?

Legal questions to consider:

- Is my institution subject to FERPA or HIPAA regulations?
- How is access tempered by my institution's privacy policies?
- How do state privacy laws and regulations apply to our records?
- What do my donor agreements say about access?

Adding Privacy Review into the Appraisal Process

It is difficult to determine if sensitive information is contained within collections when there is a backlog of unprocessed records, and the trend toward minimal processing and mass digitization of collections makes that determination more difficult.

One solution is to conduct a sensitivity audit at the time of collection appraisal. A sensitivity audit can help determine the need for access restrictions or redaction and the collection's suitability for mass digitization and open access on the Internet.

Privacy Appraisal Workflow

- Assess what types of privacy considerations are present within the collection?
 - Personal identifying information Private Financial information
 - Personal/private expressions
 - Health Information
 - Student records
 - Institutional records/trade secrets?
- List location of materials with privacy considerations
- Can privacy sensitive materials be removed from collection easily without harm to the significance of the collection (i.e. personal banking statements) or are they integral to the collection or so scattered that extensive redaction is required?
- What general ethical concerns are present?
- What general legal concerns are present?
 - Should the archivist contact the institution's legal counsel?
- Processing recommendations?
 - Detailed processing needed?
 - Whole
 - Part (specify)
 - Minimal processing appropriate?
- Access level recommendation
 - Donor expectations or restrictions for access?
 - No access prior to full processing?
 - Redaction needed before open access?
 - Restricted access even after full processing?
 - Access of minimally process or unprocessed appropriate?
 - Other?
- Digitization
 - Donor expectations or restrictions for digitization?
 - Digitization only of sections/items appropriate?
 - Mass digitization appropriate?
 - Digitize but restrict access?

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