Since the 2005 publication of the Meissner and Greene article “More Product, Less Process,” light processing has become an ever increasing topic of conversation. One area of light processing that is seeing increased discussion, is the debate surrounding privacy. The concern is that by processing materials in the aggregate, the potential to miss sensitive materials is great. This is a situation that creates more than a few questions about privacy and placement of responsibility for protecting privacy, many of which arise while processing a collection. What is an institution legally required to restrict? What are their ethical requirements? Is the burden to protect privacy on the donor, the repository, the researcher, or some combination of the three? This study looks at some of the questions surrounding these issues through interviews with processing archivists.

Headings:

Archives--Processing

Archives--Restricted materials
COLLECTION CLOSED: OPINION AND PRACTICE IN PROCESSING SENSITIVE MATERIALS

by
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A Master’s paper submitted to the faculty of the School of Information and Library Science of the University of North Carolina at Chapel Hill in partial fulfillment of the requirements for the degree of Master of Science in Library Science.

Chapel Hill, North Carolina
August 2010

Approved by

_______________________________________
Christopher Lee
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Acknowledgments

I would like to thank Cal Lee and Jackie Dean for their support and unwavering patience during the paper writing process. I would also like to thank Jackie and Nancy Kaiser for the many, mini-workshops held to discuss my topic! Last, but certainly not least I would like to thank all of the interview participants, without whom my paper would definitely not have been possible.
Introduction

Since the 2005 publication of the Meissner and Greene article “More Product, Less Process,” light processing has become an ever increasing topic of conversation. While the term “MPLP” was coined by Messner and Greene, the idea of light processing has been around for a while. Historically, the majority of repositories have not had the resources to engage in either item level arrangement or description, though in many cases it was established as the ideal way of processing. Many of the subsequent articles published discussing light processing, or more specifically Meissner and Greene, do not debate the existence of light processing, but rather whether or not it is acceptable in regards to professional standards. Some of the literature accepts the use of light processing, but looks at the points where light processing fails to meet professional standards and what can be done to fix those points. The stream of articles has been steady, even in the Spring 2010 issue of American Archivist, three articles are devoted to discussing aspects of light processing and/ or “More Product, Less Process.” In an age of shrinking budgets and growing backlogs it is not hard to see why archivists want to discuss the potential benefits of making light processing standard, or at least admissible.

One area of light processing that is seeing increased discussion, is the debate surrounding privacy. The concern is that by processing materials in the aggregate, the potential to miss sensitive materials is great. This is a situation that creates more than a few questions about privacy and placement of responsibility for protecting privacy.
What is an institution legally required to restrict? What are their ethical requirements? Is the burden to protect privacy on the donor, the repository, the researcher, or some combination of the three? These are just a few of the many issues that may arise. Despite the constant conversation about how to handle potentially sensitive materials in archival collections, it is not apparent what measures are being taken. In an attempt to discover the current state of affairs and eventually develop a series of best practices, this paper reports on a study of repositories that are in the various stages of examining their privacy policy as it relates to processing. Ideally the results of this paper will benefit archival repositories that are struggling with how to approach restrictions during processing. Additionally it could benefit repositories that have not thought about processing guidelines yet, or even approached the question of restrictions placed by processors.

**Literature Review**

**History of Sensitive Materials Restrictions and International Comparisons**

Just over two decades ago, Harold Miller looked at a case where the FBI used the court system to gain access to materials placed in the Wisconsin State Historical Society and restricted by the donor. In his article "Will Access Restrictions Hold Up in Court? The FBI's Attempt to Use the Braden Papers at the State Historical Society of Wisconsin" Miller examines the relationship between repository and donor, as well as the implications of legal actions for a repository. Civil rights and civil liberties activists, Carl and Ann Braden, had donated their papers to the Wisconsin State Historical Society with the stipulation that they were not to be used by researchers without the donor’s
permission. This had not been a problem, as Anne Braded gave permission to almost all researchers, until the FBI requested to use the papers to defend the organization in a lawsuit from an organization in which Bradens had participated. Anne Braden refused and the issue ultimately went to the courts. The implications of this were widespread for archivists, donors, and researchers alike. The repository was concerned about legal repercussions for their institution, but because the ultimate refusal rested on Braden she was the only party legally liable. However, if the initial decision to restrict had been the repository’s, the liability may have been different, a cause of concern for repositories, and specifically processors.

In their article “Restrictions on Access to Archives and Records in Europe: A History and the Current Situation” Jaak Valge and Birgit Kibal chronicle archival restrictions in 23 European countries. The article is posed around the questions “For instance, could a restricted access to an archival document make the situation for a researcher worse or better than if the document did not exist at all: Or —could the increasing protection of personal privacy affect some global processes besides the archives and historical researches (Valge, 193).” The authors place the restrictions into four groups: protection of personal privacy, protection of state and public security interests, protection of the economic interests of enterprises and individuals, and finally copyright protection (Valge, 194). They found that most countries legally protect these “privacies” for anywhere from 30 to 70 years, but often (with the exception of copyright) fail to define within their laws exactly what is private and should be protected. The vague wording of many laws means that in practice, the decision
ultimately falls to that of the processing archivist. The widespread subjectivity in
providing access is an issue raised by Valge, Kibal, and others.

Three years prior to the survey of European archives, Elena Danielson offered a
German perspective of restriction and access in her article "Privacy Rights and the Rights
of Political Victims: Implications of the German Experience." Though this article is about
government documents, which fall under a different jurisdiction than the documents in
this study, the discussion of what to restrict from whom and why, is relevant to this
study. Danielson looks at the East German “Stasi” files that were kept on potential
dissidents of the Communist Party by the East German State Security Force. After the
reunification of Germany, Communists sought to destroy the files, West German
politicians wanted to restrict them for decades for fear of law suits and violent crimes,
while victims wanted the files open. Ultimately, “the right to know and the right to
privacy were reconciled by eliminating the basic principle of equal access,” a solution
that would not find much support within the United State’s archival community
(Danielson, 181). This is evidenced by the professional standards for access set by the
ALA/SAA Joint Statement on Access to Research Materials in Archives and Special
collections Libraries.

**Discussions of Sensitive Materials in Other Contexts**

In her paper “Access – the reformulation of an archival paradigm,” Angelika
Menne-Haritz states that the “focus of archives is shifting from storage to access”
(Menne-Haritz, 57). She believes that archivists are shifting away from the idea that the
best way to preserve papers for the future is by remaining invisible in the present.
Though this seems to be an extreme vision of the past role of archivist, she does make a good case for a shift in perception of archivists as a profession of gatekeepers. She describes the change in perception as affecting every part of the archival process: appraisal, description, and definitely access. It is partly due to this shift in role that has prompted many other discussions on the nature of access, and subsequently privacy.

Restrictions dictated by the donor are obviously the starting point for identifying sensitive materials. These restrictions can range from the routine to the ridiculous, and a repository will often try to work with a donor to negotiate for restrictions that are not overly burdensome. In collections where persons still living are represented in the papers, restrictions can be an especially tricky subject (Hodson, 194-5). It is especially difficult to navigate between privacy and access in the case of celebrity papers, where there are often extremely restrictive or even arbitrary donor agreements. In the case of the James Joyce papers and author, Adele Wiseman’s papers it was the family of the authors who controlled the estate and therefore access to the papers. The James Joyce appears to be most concerned with protecting an image, as very few of the people discussed in the papers are still living. They primarily use threat of copyright infringement to effectively place an additional restriction on materials that are physically beyond their control (Spoo, 545). The Adele Wiseman case was slightly different. Wiseman gave free access to her papers to a particular scholar, then expressed a desire to donate the papers to a repository after her death. Her daughter/literary executor did not fully follow her wishes, placing the papers on loan at the particular repository but requiring all users to require her permission first. The archivist,
Michael Moir, attempted to mediate between Wiseman’s daughter and scholars (particularly Panofsky), but it took years to come to an agreement.

Many of the articles published that have discussed light processing and MPLP also touch on issues of privacy that arise from those processing approaches. In his talk titled “More for Less in Archivs: The Greene/Meissner Approach at Work at Yale” Tom Hyry looked at the ways light processing were in effect at the Yale Manuscripts and Archives department, as well as Beinecke Rare Book and Manuscript Library. Hyry applauded the work of Meissner and Greene’s paper, and said that at Yale, MPLP has been the practice for years. He emphasized what he saw as the major principles behind MPLP that make it a good solution to the problem of increasing backlogs and decreasing budgets: 1. every collection deserves some level of description; 2. all collections are not created equal and therefore do not need to be process equally; 3. different parts of one collection do not need to be processed to the same level; 4. collections are not available unless described online; 5. materials are processed in order to be used; 6. preliminary records should be available to researchers until more complete description is available (Hyry, 2-3). The second and third principles directly affect the identification of sensitive materials. Hyry mentions working closely with donors as a way of mitigating the risks of sensitive information becoming public.

Donna McCrea and Christine Weideman also talk about their experiences in light processing. In her paper “Getting More for Less: Testing a New Processing Model at the University of Montana,” McCrea describes inheriting a nearly 3,000 linear feet backlog and how she tailored various light processing strategies to her own repository and was
able to gain some control over the collections. She mentions how helpful Meissner, Greene, and Weideman were in guiding her approach to backlog management, and suggesting light processing strategies to wade through many unprocessed collections. McCrea briefly mentions how this affect sensitive materials, by essentially saying there is no effect at her repository. She says that because previously researchers had access to unprocessed collections, there really is no difference in the risk sensitive materials becoming public because either way an archivists has not examined every item (McCrea, 287). Weideman describes a different situation where MPLP strategies were useful in her article “Accessioning as Processing.” A colleague of Tom Hyry, Christine Wiedeman also describes the situation at Yale, however rather than the big picture presented by Hyry, she focuses on the processing and describing of three collections, to provide a case study. She too is concerned about sensitive materials, but echoes Hyry’s theory that speaking to the donor is sufficient. She elaborates “I always ask the donor whether the collection contains ‘sensitive’ materials, and, if so, how he or she defines ‘sensitive.’ We discuss what we and the donor can reasonably do to identify and segregate those materials.” (Weideman, 277).

Sensitive Materials

Heather MacNeil’s book Without Consent: The Ethics of Disclosing Personal Information in Public Archives primarily looks at privacy from the viewpoint of government archives. She begins by looking at the origins of the “right” to privacy in general, tracing it back to an article by Samuel Warren and Louis Brandeis in the Harvard Law Review in 1890. MacNeil then discusses the difficulty over subsequent years to
define the right to privacy either legally or philosophically. With no clear definitions, there is a careful balancing act between freedom of information and a right to privacy that is largely based on case law. Her discussion is geared specifically towards government archives but is applicable in the case of private archives as well. An interesting fact that MacNeil points out, is that many of the laws around archives are specifically about administrative use, protecting the rights of document creators, users, and subjects; however, she says that there are very few laws that offer the same protections to records for scholarly research.

Menzi Behrnd-Klodt’s book *Navigating Legal Issues in Archives* has multiple chapters devoted to privacy concerns in archives, and the legal rights and responsibilities of the involved parties. She begins the first section about privacy and access by answering the question “Why?” with the following: “The privacy of third-party personal information in archival records and papers has become a concern in light of technology’s ability to disseminate information rapidly and widely” (Behrnd-Klodt, 102).

In addition to the chapter on general privacy concerns, Behrnd-Klodt includes chapters specifically on lawyers’ papers, FERPA, and medical records. This is the most comprehensive, up to date coverage of the topic available, and yet there is little discussion of the effects of light processing.

**Methodology**

The purpose of this study was to analyze current trends in archival processing relating to the treatment of sensitive materials. This was done through a series of qualitative interviews with archivists at public institutions. Additional, the researcher
looked at publically available processing guides. Semi-structured phone interviews were the primary data collection method used in this study, eight interviews were conducted. Interviews were approximately 30 minutes or less in length. The researcher used questions from an interview guide (see Appendix ?), but based on the semi-structured interview protocol, the researcher also used personal judgment to reword or reorder questions as necessary.

The researcher solicited participants through a variety of methods. An email invitation was sent to the Society of American Archivists’ Archives and Archivists listserv. Email invitations to participate were also sent to archivists that were suggested by the researcher’s adviser and current interviewees. After volunteering to participate, a phone interview was scheduled. The researcher sent the questions (Appendix ?) ahead of the interview, during the scheduling process to further encourage participation.

The criteria for selecting participants are based on the definitions that follow. For the purposes of this study an archival repository refers to an institution with a collection of personal and business papers that is large enough to have a separate technical services department. This does not include repositories that are subject to Health Insurance Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA) laws such as university archives or official depositories of medical records or governmental records. Processors are defined as employees working in a technical services department, and are responsible for the organization, description and processing of archival collections. This includes full time employees, as well as part time workers, volunteers, graduate assistants and other student workers who work under the
supervision of a practicing archivist. A processing guide, for this paper, is a series of written instructions that communicate how a processor should approach a collection. All of the archivists interviewed were processing archivists in supervisory positions. The archivists supervised a variety of employees, including volunteers, student workers (both graduate and undergraduate), and other archivists. Though they were in managerial positions, the archivists interviewed were very much involved in the day to day processing of collections.

During the phone interview, the researcher took thorough notes, which were then emailed to the interviewee within a few days of their interview. This allowed the interviewee to correct any mistakes the researcher may have made in note taking. It also allowed the interviewee to expand on and develop more completely a topic discussed in the interview. The researcher found that these corrections were a source of additional, very helpful information.

A total of eight interviews were conducted. Due to time constraints the researcher, unfortunately had to turn down two offers to participate. A letter was assigned to represent each repository in this study, to preserve their anonymity.

Findings

Each repository’s responses to the questions are listed below. They are anonymized and are in no particular order in this section.

1. **Does your repository have a written guide for processors?**

   a. If yes:
i. *Is there a section on how to process sensitive materials?*

ii. *When was the guide written/ instituted?*

iii. *Is it publicly available? If yes, where?*

b. *If no:*

i. *Is there an understood policy among processors for identifying and restricting sensitive materials?*

<table>
<thead>
<tr>
<th>Archivist</th>
<th>Written guide</th>
<th>Sensitive materials section</th>
<th>Date instituted/ Last revision</th>
<th>Publicly available</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Yes</td>
<td>Yes</td>
<td>Late 1980s/ 2009</td>
<td>Yes</td>
</tr>
<tr>
<td>B</td>
<td>Yes</td>
<td>No – Section on restrictions</td>
<td>Unknown/ 2005</td>
<td>Yes</td>
</tr>
<tr>
<td>C</td>
<td>Yes</td>
<td>Yes</td>
<td>2000/2010</td>
<td>No</td>
</tr>
<tr>
<td>D</td>
<td>Yes</td>
<td>No</td>
<td>2006/2010</td>
<td>No</td>
</tr>
<tr>
<td>E</td>
<td>Yes</td>
<td>No – Scattered, on restrictions</td>
<td>1970s/ 2005</td>
<td>No</td>
</tr>
<tr>
<td>F</td>
<td>Yes</td>
<td>No – Section on restrictions</td>
<td>1990s/ Always evolving</td>
<td>No</td>
</tr>
<tr>
<td>G</td>
<td>Yes</td>
<td>Yes</td>
<td>2007/2007</td>
<td>No</td>
</tr>
<tr>
<td>H</td>
<td>Yes</td>
<td>No – Section on restrictions</td>
<td>2008/2008</td>
<td>No</td>
</tr>
</tbody>
</table>

**Archivist A:**

Yes, Repository A has a written guide for processors that is currently available to the public through their website. The guide has been around since the late 1980s and
was most recently updated prior to being made public, in 2009. The processing guide has an extensive section on sensitive materials. The archivist noted that this particular section is being revised again with legal guidance. Even though the section on processing sensitive materials is quite explicit, the archivist said that there is always the policy “when in doubt, talk to your supervisor!”

Archivist B:

Repository B has a guide that was last updated in 2005, a version of which is posted on the repository’s website. It does include a section on sensitive materials, however the official restriction policy is not included in the online version. The portion of the policy included mostly concerns how to convey the restrictions to the researcher, and is less about how to identify sensitive materials, that information primarily comes from staff training.

Archivist C:

Repository C has a written processing guide that includes a section on processing sensitive materials. The archivist said that because for many years there was one staff person (with occasional student help) doing most of the processing, there was not a need for a full-length manual (though there were guidelines that were 4-5 pages long). As more people began working in the department, and the repository began using more computer technology (for bibliographic records, finding aids, databases for different formats, locations, etc.), there was a need for more explicit, more complete written guidelines. The manual was pieced together about 10 years ago from various policies and has been revised several times over the past few years – sometimes to clarify new
ways of dealing with “standard” formats (arranging and describing, handling preservation issues, etc.), and sometimes to explain how to handle new formats, i.e. electronic files. The section on privacy and sensitive materials is under discussion now. The policy is not currently public, primarily because their website is controlled by the parent institution and so updating or revising the document would be difficult. They may reevaluate this policy if the status of the website changes. The archivist added that new people rely on the manual a bit more, but archivists with experience develop a sense of what to look for. Context is all important and archivists learn to detect nuances in sensitive materials over time. However, she reiterated that when unsure get clarification from a supervisor or the donor.

Archivist D:

Repository D has a written guide for processors, but it is only available within the department. The guide dates back to 2006 and it is currently under revision again. The current version does not include a section on how to process sensitive materials. Instead processors are aware of how sensitive materials should be handled in their repository. This is largely due to recent collections containing large amounts of sensitive materials that have sparked more in depth discussion.

Archivist E:

Repository E has a written processing manual that was created in the 1970s and revised periodically since then. The latest complete revision is from 2005. There is not one specific section on how to handle sensitive materials, but there is information scattered throughout the manual. Currently, it is not publicly available because of the
upkeep involved with adding another page to the website and the potential strain on reference staff. Beyond the written manual, there are understood policies on how to process sensitive materials. To a certain extent this is due to the amount of experience the processing archivists have: more than 70 years combined. Processors are also encouraged to consult one another and their colleagues with more experience. Occasionally there are student processors and they are given examples of what to look for and told to consult a supervisor with questions.

Archivist F:

Repository F has a written guide for processors, and according to the archivist, it is always a work in progress. It does not exist in a single document, instead it consists of about a dozen MS Word documents, each of which is essentially a chapter. The guide began in the late 1990s, some topics are more volatile than others and so get updated more often, especially the sections on electronic materials and EAD. There is not a section on how to process sensitive materials. There is a chapter on restricted materials, but it is really about how to describe them in the finding aid and explaining restrictions to patrons. There is not a part that specifically advises archivists on what to look for or what specifically to do once they run across sensitive materials. It is not currently available to the public. The archivist said that they would eventually like to make it public, the feeling is that it would make a useful community resource. However, right now there are other goals that have higher priority at the repository. Since there is not a section in the written guide, traditionally, processing sensitive materials has been handled as part of the long term oral training and teaching that goes on throughout an
archivists career at Repository F. This includes instruction from supervisor and
department meetings, the instruction has just never been codified.

Archivist G:

Repository G has a written guide for processors, that was brought with the
archivist when hired several years ago. It was adapted to fit Repository G. It is only
available within the repository. There is an extensive section on processing sensitive
materials that includes specific types of documents to look for, where they might be
found, and what to do when they are found. In addition to the written guide, Repository
H has a policy of “when in doubt, ask!” The archivist is not sure what was done prior to
that, but understands from colleagues that it was something similar. The archivist noted
a change in philosophy between the old and new processing policies. In the past, the
archivist’s predecessor had policy for photocopying materials in which the archivist
would review all copy requests as an extra check to see if sensitive materials were going
out. That was stopped because they now feel that the decisions being made were too
subjective. In general the repository is more conservative in applying restrictions now,
to eliminate the extra work and subjectivity in that extra check.

Archivist H:

The archivist described a situation in which there are several processing units within
a larger parent institution, some have written guides and some don’t, and some are
more formal than others. The archivist’s particular processing unit has a written guide
that was instituted about 2 years ago. All of these documents are only available within
the repository. There is a section on restricted materials, mostly categories of sensitive
materials, how long to be restricted or redacted, or other method of protecting sensitive materials. The archivist said this section is only about 2 pages long and eventually the repository would like to develop it more, to include case studies of how to handle sensitive materials. Beyond the written guide, there is an understood policy of having all decisions go through the supervising archivist. This is because all of the repository’s processors are graduate students that (at least initially) lack the experience to definitively decide how to approach sensitive materials. The archivist said they receive continual training, but as part of the training all potentially sensitive materials are vetted through the supervising archivist.

2. *Did HIPAA or FERPA influence your sensitive materials processing guidelines?*

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<td>D</td>
<td>E</td>
<td>F</td>
<td>G</td>
<td>H</td>
</tr>
<tr>
<td>HIPAA/</td>
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<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Case by</td>
<td>Yes</td>
</tr>
<tr>
<td>FERPA</td>
<td>influence</td>
<td>influence</td>
<td>influence</td>
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</table>

By the criteria indicated in the methodology, none of the archivists interviewed work at repositories that are subject to HIPAA or FERPA requirements. Though there is no legal responsibility to restrict materials, the repositories feel a varying degree of ethical responsibility to protect certain materials.

Archivist A:
The archivist stated that the repository was not legally bound to follow HIPAA/FERPA, but they use it as an ethical guideline to direct policy decisions. The repository policy is that it feels reasonable to turn to those standards for guidance. The archivist elaborated on FERPA, suggesting that the repository has more incentive to comply with FERPA. The example of a collection from a representative of the larger institution was given; being parts of the same whole, the archivist said that there is a strong responsibility to be more diligent about potentially sensitive materials. That being said, the archivist also reiterated that legally the repository is only required to restrict what is in the donor agreement, anything else is an ethical decision on the part of the processing archivist.

**Archivist B:**

The archivist from Repository B did not elaborate much on this question beyond stating that the repository is not a covered entity under either HIPAA or FERPA. The archivist did say that any decisions to restrict sensitive materials come from ethical rather than legal responsibilities. In general the repository chooses to shred materials with personal identifiers, they may also redact if there is significant research value.

**Archivist C:**

The archivist stated that the repository is not a covered entity, but believes that the ethical responsibility to protect privacy is great enough to treat documents as if they were covered. The archivists said that other archivists within the repository agree that there is an ethical responsibility even where there is not a legal responsibility, and have made it standard policy to treat materials as if they are covered by HIPAA or FERPA. The
archivist reports that the repository attempts to close or redact most items that HIPAA or FERPA would close. For example, health clinic forms where the information is in the same spot are fairly easy to redact, and so that was the course of action with a particular collection.

Archivist D:

Not being subject to HIPAA or FERPA, up until recently the repository has not been influenced by either. The archivist described a recent collection from a communicable disease researcher that has made HIPAA a topic of discussion. The repository is looking at restricting and redacting options to handle the particularly sensitive materials generated by the researcher.

Archivist E:

Repository E definitely uses HIPAA and FERPA to guide their restricting policies. It is included in their processing guide in boiler plate language. The repository also makes use of legal counsel, which has worked the repository to define specific responsibilities to the parent institution; mostly for collections that come from representatives of the parent institution.

Archivist F:

The archivist at Repository F said that though they are not legally bound to think about the protections provided by HIPAA and FERPA, they generally use weeding or redacting to remove identifying medical information or materials sensitive for security reasons. The level of weeding or redacting is based on the importance of the material weighed against the level of sensitivity.
Archivist G:

The archivist at Repository G said that, that institution’s interpretation of FERPA and HIPAA is that sensitive materials can exist anywhere. Archivist G reported that the repository does not follow the letter of the laws because they are not required, but they do try to follow the “spirit of the laws”, as they understand them.

Archivist H:

The archivist at Repository H said that yes, HIPAA and FERPA influence their processing guidelines even though the repository is not a covered entity. The repository tries to get rid of identifying information, while keeping materials that are historically important. Generally, if the materials are kept, then they are restricted for a standard number of years, or researchers need permission to see the materials with additional restrictions placed on how the researchers can then use the materials.

3. *Do you avoid collecting materials because they may contain sensitive items?*

<table>
<thead>
<tr>
<th>Avoid collections</th>
<th>Archivist A</th>
<th>Archivist B</th>
<th>Archivist C</th>
<th>Archivist D</th>
<th>Archivist E</th>
<th>Archivist F</th>
<th>Archivist G</th>
<th>Archivist H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usually no</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Usually no</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Archivist A:
The archivist at Repository A said that at times the repository staff have talked about legal ramifications before collecting materials, but have generally decided that the intellectual benefits outweighed the risks of collecting the materials.

Archivist B:
No. The archivist stated that some of the most valuable collections obtained by the repository have to do with medical records. The repository just opts to deal with the materials as they come across them. Instead, they focus efforts on educating donors about restriction options and policies.

Archivist C:
No. Archivist C said that the policy at Repository C is to decide whether to close or restrict materials as they go through them. The archivist said that the feel at the repository is that the value for history is worth the care and storage involved. The archivist gave the example of legal case files. They can be particularly sticky and some repositories won’t collect them but this repository feels the value is worth it. They go so far as to try to get lawyers to get client permissions, and close those files without permission.

Archivist D:
No. The policy at Repository D is to work with the donor prior to accepting materials.

Archivist E:
No. Repository E works very closely with the donor on obviously sensitive materials. Before the repository will take something they will have the donor double check for sensitive materials that may need to be restricted, or even not donated.

Archivist F:

According to the archivist at Repository F, there are no absolute policies and they have probably done a bit of everything. However, since the archivist has worked at the repository there is no memory of refusing collections because of sensitive materials. Generally the repository will work with donors to advise them of the possibility of materials cropping up publicly. Especially in the case of donors who worked in areas that were subject to privacy law (doctors, lawyers, etc.), the repository works very closely to advise those particular donors as to responsibilities and liabilities.

Archivist G:

Yes. The archivist at Repository G has refused certain types of papers, or will tell the donor to sterilize the collection of the unwanted materials before donating them. The archivist said the repository prefers to work with donors to change behaviors in documentation to make collections useable, and gave the example of a health organization. The archivist said that the material was fascinating, but would have been unusable for decades because of the sensitive materials. The organization folded before the repository could work with them on their documentation methods, and so ultimately refused the collection.

Archivist H:
The archivist at Repository H said that in general, the fact that a collection may have sensitive materials does not deter the repository from accepting the materials.

4. Do you change processing behaviors from collection to collection based on suspicion of sensitive materials? For example, do you look in the logical places or do you feel you need to look deeper in the collection?

<table>
<thead>
<tr>
<th>Archivist</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change processing behaviors</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Archivist A:

Yes, depending on how strong the suspicion is. The archivist said that if there is reasonable suspicion (i.e. folder labeled “personnel”) the processors will definitely take a closer look. This is especially true with collections that are going to get more use and the chance for privacy violation is greater. However, if there is only a hint, or no hint at all, the archivists questioned “how much time do you really want to spend looking for sensitive materials that may not be there?” In general, the archivist said that it is third party privacy sort of drives the awareness of sensitive materials.

Archivist B:

At Repository B, “More Product, Less Process” is the standard that guides their processing. The archivist said that processors perform a good faith effort to find
sensitive materials, looking at folder titles and samples of materials within folders as a double check. But because the processors do not touch every item, they rely on instinct. The archivist described this instinct on where to look for sensitive materials as one that come from lots of practice processing. Repository B emphasizes the training that new employees and student workers receive to develop this skill.

Archivist C:

Yes. The archivist at Repository C also mentions the archivist’s instinct and common sense. For example, Repository C is not as worried about older collections where correspondents are deceased (unless their children were discussed in terms intended to remain private). The concern about sensitive is greater in more recent collections, where the people discussed are likely still living. In general, the archivist said that the repository tries to balance research needs with privacy concerns. The repository doesn’t item level describe, but usually processors have to touch everything, especially with recent collections. Often collections are received very disorganized and thrown in boxes without folders, so it’s just easier to check most items as the processor is organizing them. Many collections also have restrictions specified in deeds of gift, and to apply such restrictions to an unorganized collection, the processor has to read enough of every document to be able to sort them into categories, and can apply the appropriate restrictions

Archivist D:

Yes. According to the archivist, Repository D is moving away from item level processing, therefore the search for sensitive materials varies from collection to
collection. The archivist stated that the repository prefers to work with the donor to identify sensitive materials prior to accessioning a collection.

**Archivist E:**

The archivist at Repository E said that it depends on how well or poorly the collection is initially organized. The archivist gave the example of a college dean’s papers, saying that there will definitely be sensitive materials, but they will also be more obviously labeled and identifiable. That was contrasted with material from a family attic that may have equally sensitive materials, but will probably not be as obvious, causing the processor to take more time finding them. Upon finding sensitive materials, it is up to the processor how to proceed, but they will tend to restrict if there are large identifiable chunks, but if it is minimal and scattered the material will be open to research.

**Archivist F:**

The archivist said that Repository F is currently in a time of transition – a generation ago processors would have looked through everything very carefully (item level processing) in collections where sensitive materials might turn up. Now the repository is moving to an MPLP model (file level processing), where a processor is more and more being asked to understand where sensitive materials are likely to crop up (in what types of series and files) so they don’t have to look in every series. The archivist said that they are not trying to root things out, but trying to catch what is obvious. In general, the repository policy is that processors shouldn’t spend a lot of time hunting
out sensitive materials, but dealing with them when they are obvious or when they become an issue during use.

**Archivist G:**

The archivist said that the processors at Repository G use two levels of looking for sensitive materials. First, during accessioning where potentially sensitive materials are flagged for later examination. This is primarily because the repository allows researchers to look at unprocessed collections and the flags let reference staff know that a collection needs more attention. The second look is during processing. The processor should identify the likelihood of sensitive materials, then decide how deep to dig based on that assessment. This assessment is based on what type of materials the collection contains and who the donor was, but also how valuable are the materials to researchers.

**Archivist H:**

The archivist stated that per their workflow, once a collection has been thoroughly surveyed, a processing proposal is written up by the processing archivist and submitted to the Head of Manuscripts Processing. At that point, there is a lengthy discussion regarding the level of processing the collection needs (among other things), as well as how to handle potential sensitive materials, if the Deed of Gift specifies that such materials exist. This system encourages a case by case basis for evaluating processing levels as they pertain to sensitive materials. The archivist further added that here is always the option of going to item level processing, but the repository discourages that because it slows work flow down significantly.
5. *Do you educate researchers as well as donors about sensitive materials?*

**Archivist A:**

The archivist feels that researchers bare some of the responsibility in privacy, perhaps even the most. The archivist stated that many researchers act under the assumption that “it was served up to me so it must be ok to...,” almost taking the approach that “an archivist approved it.” The archivist said that colleagues within the repository have debated a move to a model that puts more responsibility on the researcher, thus requiring more researcher education. Some feel that the ethical responsibilities to the researcher are stronger than the responsibilities to protect privacy; while others feel the exact opposite.

**Archivist B:**

At Repository B, the reference staff does work with patrons, insofar as they are required to sign confidentiality agreement that includes a statement on copyright and privacy. Reference staff are also responsible for mediating access to already restricted materials, and so provide a bit more instruction to patrons who use collections with materials identified as sensitive.

**Archivist C:**

At Repository C, reference staff ask people to notify them if they come across something fairly recent that seems sensitive; some collections have a form that a researcher must sign to promise not to contact the writer, copy or cite names or initials; and some collections do not allow any copies (digital or photocopies) even if the
researcher is allowed to use the materials. The archivist said the repository is especially concerned with 3rd party privacy.

**Archivist D:**

The archivist at Repository D said that it depends on the collection. There are some examples where researchers are able to look at restricted materials, but must sign a “hold harmless” form. They agree not to cite the material or use it in any way other than to draw their own conclusions.

**Archivist E:**

Repository E hasn’t really touched on this area in their discussion of sensitive materials. Public service staff are certainly made aware of sensitive and restricted materials, and everyone (processors included) work the public service desk at some point; and so everyone is aware of the potential for researchers to find sensitive materials. The repository generally approaches the subject of researchers and sensitive materials if it becomes an issue, and according to the archivist there have been no problems within memory.

**Archivist F:**

Repository F hasn’t done much yet in talking with researchers as well as donors about sensitive materials, but plan to in the near future. The archivist said that the feeling at Repository F, is that ultimately it is the job of researchers to deal responsibly with any sensitive materials they may encounter. Right now they address this in a remedial way, if necessary, but are moving toward placing more responsibility on the researcher. At the same time, Repository F is not moving away from donor education, in
fact they are educating the donor more about what is sensitive and what problems
might be created from giving those types of materials.

Archivist G:

The archivist at Repository G said that as of right now they don’t. Mostly because
the repository is small enough that it is rarely an issue. The archivist added that if
someone did want to publish something that seemed sensitive, reference staff would
remind them that the institution isn’t liable. They describe it in terms of copyright,
pointing out that the researcher is liable for any results of publishing or distributing
materials.

Archivist H:

No, according to Archivist H, the repository staff does not talk to researchers
beyond what is in the finding aid. The archivist believes this is because the repository
doesn’t believe it is an issue with most of their collections.

Conclusion

It became apparent as the study went on that rather than clear groups emerging,
the archivists’ responses were better categorized on a spectrum with protecting privacy
on one end and providing access on the other. The majority of the archivists would be in
the center of such a spectrum, slightly closer to the “providing access” end. None of the
archivists spoke in absolutes, rather, they chose to emphasize their and their
repository’s ability to evaluate the processing needs of a collection on a case by case
basis.
All of the respondents emphasized in their answers to Question 2, about HIPAA and FERPA that though none were covered entities legally; ethically they felt that the repository had some level of responsibility to protect the information. Only a few of the respondents said that neither HIPAA nor FERPA influenced their decisions on what to restrict, but even they began to consider using the laws as guidelines after receiving particularly sensitive collections. Information that would not have been covered by HIPAA and FERPA, that primarily dealt with third party sensitivity privacy was treated with almost equal importance in most cases.

Question 3 looked at how collection development was impacted by the potential presence of sensitive materials. Despite the fact that the majority of the archivists interviewed do not like to restrict materials or keep materials that can’t be used, very few said that this reluctance impacts their collection development policies. Most emphasized working with the donor prior to receiving the collection to discuss and identify potentially sensitive materials. Several archivists reiterated that while they may have some role in collection development, the final decisions are made by their supervisors.

Many of the respondents said that light processing is standard practice at their repositories; some of which also stated that they worry about sensitive materials being overlooked and left in the collection. However, in Question 5 many of the same respondents said that their repositories do not discuss privacy with researchers as well as donors “because it really isn’t an issue.” This exact phrase was used by multiple interviewees. The concerns expressed by the archivists are not reflected in the conclusions they have drawn. The disconnect between theory and policy is something that should be explored by more archivists because it may become an issue down the
road. This is not to say that archivists should abandon light processing, instead archivists need to recognize that by light processing some of the burden of discovering sensitive materials is being placed on the researcher. If we, as a profession are placing this burden on the researcher, we need to clearly define their responsibilities.

Beyond the questions, many of the archivists expressed a concern over the subjectivity in deciding what gets labeled “sensitive.” The archivist at Repository A mentioned a discussion with a colleague about the principle of the “reasonable person” as a standard. Both the archivist and colleague are reasonable people but have different opinions. The archivist gave an example from the conversation, saying “one reasonable person may be more embarrassed by high school love letters than medical records, but how are we to know?” The archivist at Repository H also had concerns, stating that “it is not the archivist’s job to be a censor, but how do you attempt to protect 3rd party privacy without a measure of subjectivity in your decision.” In general, the archivists struggled most with the concept of balancing 3rd party privacy with the duty to make materials available to the researcher.

Among the respondents, there were two philosophies on keeping restricted materials. Both groups agree to restrict materials for various lengths of time, the difference is the length of time and at what point the price outweighs the research value. The archivist at Repository G specifically said they don’t like to keep materials that have to be restricted for decades on end. The archivist plainly stated that “there is a lot of overhead involved in keeping things secret.” The archivist at Repository G, and several of the other repositories feel that it is important to protect privacy, especially 3rd
party privacy, but that the point of collecting materials is so that they can be used by researchers. Many expressed a dislike, or at least a reluctance to keep materials that can’t be used in the foreseeable future. This seems to be due at least in part to the time and resources that must still go into a collection that will sit on a shelf. These opinions contrasted very much with the opinion of the archivist at Repository C, who said that the storage is absolutely worth the eventual research value of a collection.

This study gathered information on attitudes and practices related the topic of processing sensitive materials. The results show that processing sensitive materials, and the difficulties of balancing the concepts of access and privacy weigh heavily on the minds of archivists. Every one of the archivists interviewed said that their repository was currently, or had recently questioned their privacy policy, whether for a single collection or for the institution as a whole. While this study has provided a few points of discussion for the topic, it has overwhelmingly demonstrated that the potential for further study is great and much needed.
Bibliography


Menne-Haritz, Angelika. “Access- the reformulation of an archival paradigm.” *Archival


Appendix A

Interview Guide and Script

Introduction

Thank you for agreeing to participate in this study of processing sensitive materials. Today I am going to be interviewing you on the processing guides used by your repository when processing collections with potentially sensitive materials.

I will only be taking notes during the interview. Also, I want to let you know that once I have reviewed and taken notes on your responses to my questions I will send you a copy for you to review, and anonymize all data that would identify your or your repository.

Questions

1. Does your repository have a written guide for processors?
   a. If yes:
      i. Is there a section on how to process sensitive materials?
      ii. When was the guide written/ instituted?
      iii. Is it publicly available? If yes, where?
      iv. If not publicly available, would you be willing to send me a copy?
   b. If no:
      i. Is there an understood policy among processors for identifying and restricting sensitive materials?

2. Did HIPAA or FERPA influence your sensitive materials processing guidelines?
3. *Do you avoid collecting materials because they may contain sensitive items?*

4. *Do you change processing behaviors from collection to collection based on suspicion of sensitive materials?* For example, do you look in the logical places or do you feel you need to look deeper in the collection?

5. *Do you educate researchers as well as donors about sensitive materials?*

**Closing**

Thank you so much for agreeing to participate in my study, and for letting me interview you today. If you have any questions, please do not hesitate to contact me.