ACCESSING RESTRICTED RECORDS WHILE PROTECTING PERSONAL DATA

AN ETHICAL BALANCING ACT

A PRESENTATION ADAPTED FROM THE RESEARCH OF CARA BERTRAM & JAMEATRIS RIMKUS
Archivists balance both open access and protection of privacy

- A matter of Archival Ethics
- Striking a balance in a practical everyday way
  - Finessing access policies and informal methods
- The role of University Archives in protecting different types of personal information and facilitating research
  - Compliance with FERPA, HIPPA, FOIA, etc.
  - Using methodologies to create an environment conducive to research
- Relevant case studies and archival theory
  - Lots of single case studies and overarching theory

The University of Illinois Archives provides an example of an archives that collects a wide range of records, providing the opportunity to research how the archives deals with a variety of records and their potential restrictions in a practical manner.
Mission: To select, preserve, and make accessible an authentic record of the programs, people, and operations of the University of Illinois at Urbana-Champaign and the central administration of the University of Illinois, and to provide archival management for records of external organizations and documents of individuals in support of the administrative, teaching, research, and service interests of the University of Illinois.

Program areas: University Records; Faculty Papers; Alumni Papers; Specialized subject documentation (concert bands and band music, legal education, librarianship, military history, public service advertising, student life)

- Leading to the University Archives to collect beyond “just” administrative records; the personal papers of faculty and alumni; fraternity and sorority archives (local and national); association archives (American Library Association, Ad Council, Third Armored Division, etc.); local music archives (studio archives, local musician papers)
THE USUAL AND UNUSUAL SUSPECTS

Concern about the “usual” items in University Archives:

- Social security numbers
- Personnel issues and evaluations
- Transcripts
- Student disciplinary records
- Sensitive information in admin records/Dean’s Papers/President’s Papers
- Campus security

Mixed collection brings in other concerns:

- Faculty Research – Protection of informants, revealing information on subjects
- Secret Information – Sorority and fraternity traditions, cultural traditions
- Third Party Privacy – Revealing correspondence, third party information
- Case Files – Litigation, sensitive information on students/staff/faculty

“What do you mean I can’t access a professor’s appointment file?”
STRATEGIES (THE GOOD STUFF)

Formal Methods

- Development of access policies
  - “Bringing the policy to fruition might demonstrate that the archives could responsibly serve the institution and scholarship.” – Mark Greene
  - User forms/agreement to access policies/Nondisclosure forms
    - “Failure to comply fully with these terms may subject you to legal prosecution and will cause you to be denied access in the future to such records in the UIUC Archives.” – UIUC Request for Access to Archival Academic Staff Records
  - Partnerships with originating offices and donors
  - Time limit on restricted records
    - “In 2013, this restriction will be reviewed for appropriateness and may be extend for an additional period if warranted.” Former UIUC Oscar Lewis Papers Access Form

Informal Methods

- Staff access/review
- Awareness/understanding of the collection
- Recommendation of other resources
- Abbreviated public finding aids
STUDENT RECORDS

- Transcripts, student ledger cards, disciplinary records, health records, reports and correspondence in dean’s papers
- Compliance with FERPA and HIPPA
- Potentially valuable biographical information for researchers
- How to facilitate access?
  - Providing researchers with directory information, i.e. years of matriculation and graduation, major, high school attended, hometown, parents
  - Staff review for social security numbers, transcripts, etc.
  - Approval from the Office of the Registrar to release the full transcript
PERSONNEL RECORDS

HR Records/Appointment Files
- Tenure/promotion, disciplinary actions, social security numbers
- Also valuable resources to researchers
  - CVs, photographs, summaries of careers

President’s Papers
- Older presidents have extensive correspondence on appointments
- Sometimes problematic information
  - Disciplinary information, hiring/firing of faculty

Faculty hoping that you will never see their tenure review.
Oscar and Ruth Lewis Papers
- Used informants from Havana, Cuba
- Names had to be redacted for the safety of the informants
- An abbreviated finding aid available online, a more thorough one provided onsite
- Ability to make copies of materials is restricted
- Records opened after a certain amount of time has passed
  - In 2013, certain records regarding Cuba were opened
  - Researchers wanted new materials
  - Reference archivists retrained on what could be accessed

Oscar Lewis created valuable, yet problematic records. Thanks, Professor Lewis!
Doris Duke Indian Oral History Program Archives

- Includes interviews with Native Americans/informants
- Some interviews restricted due to sensitive information
- An abbreviated finding aid available online, a more thorough one provided onsite
- Ability to make copies of the materials is restricted

Sorority and Fraternity Records

- Secret traditions and rituals
- Certain records are not listed in public finding aids
  - RS 41/90/5: “Items less than ten years old are not shown here and have special restrictions. Please contact the Archivist for details.”
- Permission granted through organizations and Archivist

Sororities and fraternities have secret rituals. This isn’t one them, this is a Alpha Xi Delta stunt show.
THIRD PARTY PRIVACY

Michael Hart Papers
- Problems of third party privacy in correspondence
  - Revealing information about third party correspondents
  - Correspondence vaguely described in the public finding aid
  - Restricted, to be reviewed by the University Archivist before access to ensure protection of privacy

Charles Zeleny Papers
- Third party investigation of an orphanage
  - Report from early 20th century
  - Unflattering descriptions of parents
  - Report and files reviewed before access

Our Gang Infant Day Care Center Papers
- Information on children and parents participating in the daycare
  - Development tests
  - Health information
  - Case reports

“How did you get a picture of me in my bathing suit!!” said someone completely unrelated to the University.
American Library Association Archives holdings of case files from the Freedom to Read Foundation

- Association archives managed by the University Archives – materials not owned by the University
- Contains information on litigation
  - Cases on sexual harassment, discrimination, and correspondence of individuals seeking legal advice and representation
- Files restricted, but do contain valuable information for researchers
  - Access permission from the Director of the Freedom to Read Foundation
  - Access to news clippings and other publications that are public
CAMPUS SECURITY

Architectural Drawings

- Laws and policies have changed in regards to access
- Potential threat to campus security
- Permission to make copies goes through Public Safety
- Provide access to alternate sources
  - Historical, out of date drawings
  - Published plans
  - Can view certain items, but no copies or photos can be made

We got this from a digital collection, so I assume we’re not sharing any secret locations in this slide.
LIMITATIONS

Belfast Case
- Restrictions and access policies do not stand up against a subpoena
  - “If the opportunity presents itself to provide insight about laws or rulings that will affect archives, that opportunity must be taken.”
    Christine George

Freedom of Information Act (FOIA)
- University records subject to FOIA
- Doesn’t apply to records that might compromise personal privacy or undue burden

Size of the Collection
- Large volume of records (30,000 cf), we can’t catch everything
  - Discovered a letter in a president’s papers from a professor, outlining the details of the professor’s life which accuses his wife of cheating on him and other wrongs done to him by third parties.
FURTHER RESEARCH

Studying access policies of other university archives

- Language used?
- What restrictions are in place that are similar or different from U of I?

Survey to other university archives

- Holdings? Administrative records, faculty papers, alumni papers, local archives
- Kinds of restrictions/access issues have they run into
- Strategies they use to facilitate access and protect privacy

Developing the best way to get you to respond to our SurveyMonkey questionnaire.
LITERATURE REVIEW

- Tamar Chute & Ellen Swain, *Navigating Ambiguous Waters: Providing Access to Student Records in the University Archives*
- Marybeth Gaudette, *Playing Fair with the Right to Privacy*
- Christine Anne George, *Archives Beyond the Pale: Negotiating Legal and Ethical Entanglements after the Belfast Project*
- Mark Greene, *Developing a Research Access Policy for Student Records: A Case Study at Carleton College*
- Mark Greene, *Moderation In Everything, Access In Nothing?: Opinions About Access Restrictions On Private Papers*
- Sonia Yaco, *Balancing Privacy and Access in School Desegregation Collections: A Case Study*
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Cara working in the American Library Association Archives stacks.

Jameatris sorting student ledger cards.