

INTERNATIONAL COUNCIL ON ARCHIVES

**COMMITTEE ON BEST PRACTICES AND STANDARDS
WORKING GROUP ON ACCESS**

Principles of Access to Archives

Technical Guidance on Managing Archives with Restrictions

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INTRODUCTION

The *Principles of Access to Archives*, adopted by the International Council on Archives in August 2012, provide guidance to those engaged in developing, revising or implementing provisions for releasing or withholding materials in archival institutions. Based on international standards and good practices, they were adopted after a period of worldwide consultation.

The *Principles* are necessarily general. They promote the widest possible use of archives, consistent with the framework of laws, regulations, and agreements within which archival institutions work. They urge archivists to be proactive and to inform the public of the availability of materials for use.

Nevertheless, the *Principles* recognize that there are materials that must be withheld from the public for a period of time. The way in which withholding is managed is often contentious, both with the creators of the materials and with the general public. Archivists stand as gatekeepers, needing to assure both the user community and the entities imposing restriction that restrictions are aptly applied. This *Guidance* provides advice on the implementation of necessary restrictions, a complex professional function. The Working Group that developed the *Guidance* believes that by adopting good practices when materials must be restricted, archival institutions can reduce the need to restrict massive volumes of materials.

The global shift to electronic recordkeeping affects access to archives. However, most of the materials that archivists currently make access decisions on are in paper or audiovisual formats. Developing an access policy and making basic access determinations are the same no matter what the format of the materials is. The difference comes in the technical aspects of access management: the process of redacting (removing) information and the means of protecting withheld information. The *Guidance* provides advice on a variety of options for redaction of both paper and electronic records.

The *Guidance* focuses on the limited, openly acknowledged, legitimate withholding of materials in an archival institution. It underpins the core aim of the *Principles*, as stated in its opening paragraph:

Archives are preserved for use by present and future generations. An access service links archives to the public; it provides information for users about the institution and its holdings; it influences whether the public will trust the custodians of the archives and the service they provide. Archivists support a culture of openness, but accept restrictions as required by laws and other authorities, ethics, or donor requirements. When restrictions are unavoidable, they must be clear and limited in scope and duration. Archivists encourage responsible parties to formulate clear mandates and consistent rules for access, but in the absence of unambiguous guidelines, archivists determine appropriate access by considering professional ethics, equity and fairness, and legal requirements. Archivists ensure that restrictions are fairly and reasonably applied, prevent unauthorized access to properly restricted archives, and provide the widest possible use of archives by monitoring

restrictions and promptly removing those no longer warranted. Archivists adhere to the *Principles of Access to Archives* in formulating and implementing access policies.

Respectfully,

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A. Inform the public about the archives.

1. Principle 1 of the International Council on Archives' *Principles of Access to Archives* says, "Both public and private entities should open their archives to the greatest extent possible." To promote and facilitate access, the public needs information about the archives and the institution that holds them. At a basic level, this information includes the name of the institution, its opening hours and contact details such as a street, postal or email address where potential users of the archives can make an inquiry. This information may be published on a website or in a leaflet or directory. The physical location has clear signage to direct new users to the right place.

2. General information about the archives is provided free of charge. This includes any policies which affect public use of the archives, such as an access policy (see Section B below) and a collecting policy. Whether published online or in print, the information includes a clear statement about which archives can be accessed by whom, and may address common misconceptions. For example, it may include statements such as "any citizen of this country may request access" or "you do not have to be a student at this university to access the archives."

3. The institution makes descriptive finding aids to the archives available for consultation free of charge through printed copies or online. The finding aids are kept up-to-date and comply with international descriptive standards. As far as possible, descriptions about archives which have been received by the institution but are not yet processed and materials which are closed for access are included in the finding aids (see Section F).

4. Principle 3 of the International Council on Archives' *Principles of Access to Archives* says, "Institutions holding archives adopt a pro-active approach to access." Active promotion by the archival institution and by individual archivists helps ensure that a broad section of the general public receives information about the archival institution and its holdings. Outreach activities may include exhibitions (including virtual and online), websites, print and electronic publications, newsletters by post or electronic delivery, educational programs, tours, media events and broadcasts (such as promotion of newly-released archives), archivists' participation in conferences, publication of significant archives through digitization or facsimile editions, and the use of social media. These activities may be undertaken in cooperation with other institutions, such as participating in local events, preparing joint finding aids, and contributing to archival portals to dispersed collections. Informing archivists about the holdings of archival institutions other than their own increases the likelihood that inquiries that cannot be answered by the receiving institution will be referred to an institution that has relevant materials.

B. Develop an access policy.

5. Principle 2 of the International Council on Archives' *Principles of Access to Archives* says, "Institutions that give the public access to any part of their archives

publish an access policy.” It stresses that an access policy is written, based on “a presumption of openness.” If some materials in the institution’s holdings must be restricted, the restrictions “are written clearly to enable the public to understand them and to enhance consistency in their application,” and the access policy sets out the basis on which access decisions are made.

6. Principle 4 of the International Council on Archives’ *Principles of Access to Archives* says, “Restrictions are imposed by legislation, by institutional policy either of the archival institution or its parent body, or by a donor.” The access policy refers to the laws, regulations, orders and judicial decisions, policies and internal rules, and donor agreements that apply to the archives. It may also refer to the *Principles of Access to Archives*.

- a. Laws and regulations include specific legislation on the archives; freedom of information, privacy and data protection acts; laws dealing with a matter not related to archives but including access or secrecy provisions; and laws applying to private sector entities such as corporations, educational institutions, and notary publics, that include specific access or secrecy provisions.
- b. Orders and judicial decisions include executive orders, such as those on executive branch secrecy, and court orders and judicial decisions with broad impact on records; for example, decisions interpreting the standard for access to the records of grand juries or investigating magistrates.
- c. Policies and internal rules include the internal policies, directives, resolutions and rules that apply to the archival institution as well as decisions of a governing council or board and charters of universities and faith-based organizations.
- d. Donor agreements are legally enforceable documentation that defines the terms, rights and responsibilities between the archival institution and the external entity or individual regarding the donated materials. They include deeds of gift, wills, letters of donation and deposit agreements.

7. The instruments (6 a-d above) governing access policy vary by type of archival institution.

- a. Access policy for a government archival institution relies upon laws and their interpretations, regulations, orders, policies and internal rules. If the government archival institution is authorized to accept donations from the private sector, donor agreements also form part of the access policy framework.
- b. Access policy for an archival institution that is a subordinate part of a non-government entity (for example, an archives within a corporation or a religious establishment) relies primarily on policies and internal rules and, if the archival institution accepts donations, donor agreements. If national or local laws apply to the entity, these are incorporated in the access policy.
- c. Access policy for a non-government archival institution that exists independently of a parent body or whose principal purpose is to obtain donations relies most heavily on its policies, internal rules and donor agreements. If a law applies to non-government archival institutions (for example, in some countries data protection laws apply to private sector institutions), this is incorporated in the access policy.

8. Principle 4 of the International Council on Archives' *Principles of Access to Archives* distinguishes between general restrictions and specific restrictions; both are included in the access policy.

- a. General restrictions apply to particular kinds of information or designated classes of material wherever they are found in the archives.
- b. Specific restrictions are specified by the transferring entity and apply only to the archives of a particular creator or donor. The access policy includes a generic reference to specific restrictions to alert users that such restrictions exist, although including each specific restriction in the policy would make it cumbersome and is usually not recommended.

9. General restriction statements define the categories of restriction and set out any exceptions to them. Restrictions are identified by number and short descriptive title and provide sufficient detail of the circumstances in which they are applied to ensure that users will understand the nature of the material being restricted. Examples of general restrictions are materials containing information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of a living person; materials restricted by statute, executive order, or court order; and materials containing confidential business and financial information.

10. Exceptions to general restrictions are stated in the access policy, such as when persons may be granted special access to records about themselves or which they have created.

11. The access policy also covers administrative processes, such as how to apply for access and how to appeal an access decision. Service delivery standards, such as the expected time period for a response to a request, may be specified.

12. The access policy is approved at a high level within the archival institution or the archival institution's parent administration. For example, in non-government archival institutions, a board of directors or a senior officer may authorize the access policy.

13. An example of an access policy is at Appendix A.

C. Agree on access restrictions at the time of transfer.

14. Principle 4 of the International Council on Archives' *Principles of Access to Archives* says, "Institutions holding archives ensure that restrictions on access are clear and of stated duration, are based on pertinent legislation, acknowledge the right of privacy and respect the rights of owners of private materials." Access restrictions are discussed and agreed upon between the archival institution and the transferring organization or person prior to or at the time the archives are transferred; the restrictions are made as specific and as minimal as possible. The archival institution's general access policy will form the basis of these discussions. Any specific restrictions are listed in the transfer document.

15. In government archival institutions, the transfer document may confirm simply that the records are subject to archival or other relevant legislation; that the records will be restricted for a set time period and then reviewed for possible release; or that

the records will be restricted for a set time period and automatically released at the expiration of the period. The transfer document states whether the records are covered by national security restrictions, are subject to specific legal provisions or court orders, or contain information that may need to be restricted, such as information that would invade a person's privacy.

16. In non-government archival institutions whose primary purpose is to preserve the records of the archival institution's parent organization, the transfer document may simply confirm that the records are now in the custody of the archives and subject to its access policy.

17. For archival institutions accepting donations of records of an organization or personal papers, the archivist discusses with the donor the archival institution's access policy, the nature of the materials in the proposed donation, and how the access policy would apply to them. The donor may request that specific items or categories of material be restricted for a stated period of time or until a particular event occurs such as the death of a named individual. The donor may ask to be consulted before the restricted materials are opened, either to specific individuals or for general use. Such conditions can be difficult to administer (for instance, they are dependent on the donor responding to communications) and should be discouraged, but if they are necessary they should be valid for only a limited time or until a specific event occurs. The agreed access conditions for the donation are confirmed in writing in the instrument of gift.

D. Control physical access to restricted records.

18. Physical access to records storage areas is controlled to prevent unauthorized entry and to limit the opportunity for access to restricted information by those not authorized to do so.

19. Keeping restricted material in a separate area will reduce the likelihood of inadvertent use of it during reference service. For paper-based and audiovisual materials, this may be a separate room or a separate area within a common storage room; in the latter case, the area may be caged or mobile shelving locked to prevent unauthorized access. For electronic records, this requires secure fire walls and separate security storage devices or space.

20. National security-classified material may require additional security measures and protocols; for example, two staff members may be required to be present when a security vault is opened and each must sign a register to confirm entry at a specific date and time for a particular purpose.

21. Access to information about the location of material within the repository is restricted to those staff members who need to retrieve records for official purposes. This restriction may include the location register indicating the shelf location of particular records; an electronic location register should be protected by a password that is regularly changed and known only to those who need to use the information.

E. Give staff access to restricted records for archival work.

22. Principle 9 of the International Council on Archives' *Principles of Access to Archives* says, "Archivists have access to all closed archives and perform necessary archival work on them." Staff members have access to holdings containing restricted information in order to arrange and describe records, to undertake preservation activities, and to implement access restrictions. If staff members must work with national security or other specially protected records, they comply with the procedures to be cleared to handle the records.

23. Only staff members whose duties require access to restricted information have access to it (the 'need-to-know' principle). This reduces the possibility of unauthorized disclosure of the restricted information. By analyzing the processes involved in identifying and implementing access decisions, archival institutions can organize their work to limit the number of staff members who need to handle restricted materials.

24. Staff members do not divulge restricted information to which they have access by virtue of their job. Staff members may be required to sign a non-disclosure agreement or a non-disclosure clause may be included in an employment contract that the staff member signs. Staff members in government archival institutions may be covered by more general legislation or regulations for government employees (for example, an Official Secrets Act) that include severe sanctions, such as dismissal, if restricted information is released.

F. Describe restricted records.

25. Principle 2 of the International Council on Archives' *Principles of Access to Archives* says, "Institutions holding archives make known the existence of the archives, including the existence of closed materials, and disclose the existence of restrictions that affect access to the archives." Through description of archives, users can determine whether or not a specific series, file unit, item or portion of an item exists, even though it is withheld from the public. The access conditions applying to records are stated in finding aids, using element 4.1 of the *International Standard for Archival Description (General)*, "Conditions governing access," including:

- a. the nature of the restriction that applies, including whether the restriction is based only on the date of the material or on its content (without revealing the restricted information),
- b. the extent of the period of closure and the date or event that will trigger the release of the material,
- c. the authority for the restriction (law, regulation, or donor agreement).

26. General information about the conditions governing access may be given at the fonds or series level, such as "subject to a 30-year rule" or "files relating to student results are subject to general restriction 2." Specific information at the file or item level indicates whether or not the material is open for access, in whole or in part, or wholly closed.

27. Restricted items are described in finding aids so that users can request the review of the decision to restrict access; however, the publicly available finding aids

do not reveal restricted information. For instance, if the identity of a person is the restricted element, the name of person in the original title of the case file should be replaced with words that indicate that the name is restricted and has been removed, for example, "Allegations of criminal activity by [name restricted]." If every word in the title is restricted, then the other elements of information about the file (number, date range, etc.) should still appear in the finding aid with the title replaced by a phrase such as "The title of this file is restricted."

G. Respond to requests for access to restricted records.

28. Principle 5 of the International Council on Archives' *Principles of Access to Archives* says, "Archives are made available on equal and fair terms." When a request for access is received, the archivist determines whether the material is open for public use. See Appendix B for a sample decision chart on preliminary steps in determining access.

29. If the material is (as para. 28) not open, the archivist determines whether the requester is eligible for access under an exception to a restriction, which is stated in the access policy. Some exceptions may be:

- a. Principle 6 of the International Council on Archives' *Principles of Access to Archives* says, "Institutions holding archives ensure that victims of serious crimes under international law have access to archives that provide evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public." The persons eligible for access under this exception must meet the criteria set out in the *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* of the United Nations High Commissioner for Human Rights.
- b. A person for whom access is specifically granted in legislation (for example, a law may state that an adoptee can see the file on his or her adoption but that file is closed to the general public).
- c. Officers and employees of the office of origin of the materials or its successor in function who have a need for the information in the performance of their official duties.
- d. In some countries, public officials have a right to gain access to records that they created or received in the course of their government service. Current legislation or internal government regulations may need to be consulted or the advice of the previously employing organization obtained to determine whether the person applying to see the records under such a provision is permitted to do so.
- e. Some archival institutions permit the use of restricted materials for the purpose of statistical or quantitative medical research if the researcher provides written assurance that the information will be used solely for statistical research or reporting and that no individually identifiable information will be disclosed by the researcher's work.
- f. Persons seeking access to national security classified records must obtain a statement authorizing access from the agency that classified the records to which access is sought.

30. All users of the archives must show some form of identification and provide information such as name, address and contact details. Persons requesting access to restricted information under an exception must show credentials that are sufficient to determine whether the person qualifies for the exception.

31. A transfer instrument may require the archival institution to consult the creator or donor before access to the transferred material is permitted. Upon receiving a request for access to materials that require prior consultation, the archival institution opens a tracking file on the request, showing the date the request was made, the name of the user, the date the request was sent to the creator/donor, the response, and the date the user was notified of the decision.

32. The archival institution maintains a record of requests for access to restricted material, including the identity of the user, any reviews undertaken, and the results of those reviews. This information is available only to staff; it is stored in a secure part of the archival institution's database or paper files. The personal information obtained in the process of verifying credentials is treated in accordance with privacy legislation or internal policy; data protection legislation may control the length of time that this information is retained and any further uses of the information.

33. Principle 8 of the International Council on Archives' *Principles of Access to Archives* says, "Institutions holding archives ensure that operational constraints do not prevent access to archives." Access requests are processed without discrimination on the basis of race, gender, religion, belief or social status of the requesters. Persons who are "disabled, illiterate or disadvantaged and would otherwise have significant difficulties in using archives" are given assistance to ensure that they have equal opportunities to benefit from access to archives.

H. Make access decisions.

34. Principle 10 of the International Council on Archives' *Principles of Access to Archives* says, "Archivists participate in the decision-making process on access." Access review is the process of screening materials to determine whether any access restrictions apply. It is undertaken when either (a) a potential user requests access to items that have not previously been made available to the public or (b) the archival institution determines that the passage of time is such that the need for restricting the majority of the materials has lapsed.

35. The principles of risk management can be applied to the screening process: the provenance of the material, the topic of the file, and the age and format of the records may indicate where restricted information is likely to be found and whether detailed examination of the records is required. For example, nineteenth-century military enlistments of deceased soldiers will not require screening, but recent investigatory case files will; photographs of forests will not require screening but current photographs of military installations will. Samples of routine correspondence and publications are reviewed rapidly to confirm that no extraneous restricted information is included. Unprocessed material requires closer screening than processed archives.

36. Principle 5 of the International Council on Archives' *Principles of Access to Archives* says, "Access determinations are made as rapidly as possible following receipt of the access request." Archivists begin a review of closed materials by reviewing all restrictions that apply, including laws and regulations, orders and judicial decisions, internal policies, specific restrictions, and donor agreements. If the items under review are in a regular format (for example, on a form or in a standard order or filed in a structured case file), the reviewer identifies the places where potentially sensitive information is likely to occur and concentrates on reviewing information found in those locations. Archivists scan files quickly, reading closely only if material that might need to be restricted is located or is presumed to be present.

37. When information that may need to be restricted is found, the archivist determines whether existing conditions eliminate the need for restriction; for example, the information is already legally in the public domain (the existence of transcripts of open court proceedings or media cuttings in the file may indicate this) or the person is deceased (a published obituary or a personnel file may indicate this).

38. If resources are available, another staff member makes a second review. The second reviewer looks at all items proposed for restriction, spot checks those recommended for release, and makes the final decision to release or withhold. The second review may not be needed if there is a well-established precedent for access to the type of information in the materials. If a second review is not done, the supervisor of the first reviewer or other designated official confirms the withholding or release.

39. It is preferable that staff members making the access decisions are not the same staff members who provide reference service to reduce the possibility of staff members inadvertently revealing restricted information to researchers. This is not always possible in small archival institutions.

I. Implement access restrictions.

40. When information that must be restricted is identified, archivists ensure that the file or item containing the information (or a part of the item that can easily be separated from the rest) is withdrawn from the publicly-available materials. Archivists limit the volume of material restricted to the minimum necessary information to protect the restricted information. The staff member who completed the review may do the withdrawal or redaction or the access decisions may be passed to another staff member who implements them.

41. Some archival institutions that do not want to restrict access to the physical materials but want to have control over the ultimate use of the information require users to sign a non-disclosure agreement or to submit a draft manuscript for approval before publication. This is not a preferred practice because it creates a substantially higher risk that unauthorized disclosure of information will occur, particularly if the researchers are permitted to possess copies of restricted materials.

42. The first decision is whether the item will be withheld in whole or in part. Different physical techniques are used to restrict information in paper, electronic, and audiovisual records.

Paper-based material

43. If the item must be withheld in its entirety or if the archival institution's policy is to withhold an entire item if so much information in it must be restricted that the redacted item will be misleading or unintelligible, the archivist prepares a withdrawal sheet, places it at the point in the file where the original item is located, and removes the original item. If many documents in a single file are restricted, a single withdrawal sheet may be inserted at the beginning of the file, listing all the withdrawn items. When completing the withdrawal sheet, the archivist is careful not to reveal the restricted information in recording the title and the creator and recipient of correspondence. Sample withdrawal sheets are found in Appendices C and D, and a definition of terms used in the withdrawal sheets in Appendix E.

44. Masking or bagging restricted items (i.e., placing restricted items in envelopes but leaving them attached to the file) is not recommended because the envelopes add bulk to the file, the process of masking or attaching may damage the item, and the bags may come loose or may be removed by users, thereby exposing the restricted information.

45. If part of a paper item can be made available, the archivist makes a copy of the original document and redacts (removes) the restricted information from the copy (Copy A), and makes a use copy (Copy B) of the redacted Copy A. All redaction is done on a copy, never on the original. Archivists ensure that the use copy (Copy B) clearly shows where, why and by what authority the information has been removed. Using colored paper for Copy B may help both users and archivists distinguish it from other photocopies and the redacted Copy A.

46. Some methods commonly used to redact paper items are:

- a. cut the restricted information from Copy A (the "piano roll" effect), annotate the copy with the authority for the restrictions, and photocopy or scan the page. It is helpful to back the cut page with distinctively marked or colored paper when copying so that the holes are easy to see on the user's Copy B. The parts removed are destroyed by secure means;
- b. black out the restricted information on Copy A with thick ink, annotate the page with the authority for the restrictions, and make Copy B (blacking out by itself may not thoroughly obscure the restricted information, so making a second copy is necessary);
- c. for blocks of text, place a piece of paper over the restricted block on Copy A, annotate the page with the authority for the restrictions, and make Copy B;
- d. scan the page, redact the information electronically (see paragraph 49 below), annotate the page, and either electronically copy it to a publicly accessible site or print it (the printed copy can be scanned and made electronically accessible; this eliminates the possibility that the electronically redacted information can be restored by the user).

47. If resources are available, another staff member checks the withdrawal sheet and the redacted copy to make sure that all restricted information has been removed.

48. The original items removed from the file are held in a parallel file, labeled with the original fonds, series and file titles. The parallel file both reduces the possibility that the original items containing the restricted information will be issued to a user and also facilitates the eventual reintegration of the items. The parallel files are stored separately (see paragraph 19 above).

Electronic material

49. Redacting electronic documents requires good technical knowledge of the properties of the software to ensure that the deletion cannot be reversed and the redacted information cannot be recovered from the electronic file provided to the user. Information deleted from an electronic item must be replaced by marks that take up the same amount of space as the original text to enable the user to understand the extent of the deletion. If the item requested is a database and one entry, element, row or column must be restricted, after the redaction the user must be able to see that an element was withheld. If the software available to the archival institution does not allow for secure deletion and space replacement, the archivist chooses an alternate means of redaction, such as printing the item (or an extract thereof if the request is for a segment of structured data) to paper, using a paper redaction technique, and scanning the redacted item.

J. Document access decisions.

50. A record of every access decision is maintained in an access control file, either in paper or in a non-public area of the archival institution's computer system. The control file is arranged by fonds or series. The control file contains the working papers on the decision-making process, a duplicate copy of the withdrawal sheet(s) and the redacted copy from which the use copy was made. If the access decision was difficult or precedent setting, it is useful to make copies of the original item, the redacted copies and the withdrawal sheet and place them in a precedent file for training purposes. The access control file and the precedent file are available to staff members only on a need-to-know basis.

51. The access decision is stated in the publicly accessible finding aids as positive confirmation of the access status of the material. For example, the entry for the fonds may suggest that many files are restricted, but if a specific file is determined to be open or closed, the entry for the file confirms this.

52. If the archives were reviewed because a user requested the materials, the user is informed in writing of the result of the review and the reason for the decision, so far as this does not compromise the restriction on access being imposed, and is given information about appeal procedures.

K. Review access restrictions, initiated by appeal or by internal procedure.

53. Principle 7 of the International Council on Archives' *Principles of Access to Archives* says, "Users have the right to appeal a denial of access." The procedure for appeal based on legislation or internal rules is included in the access policy; it is good

practice to provide a timetable for initiating appeals and for responses by the archival institution or its parent body. The policy may also proscribe another review for a period after a final appeals decision is made, such as no review for two years following a final decision to withhold.

54. Someone other than the person who did the initial review handles the appeals review; it may be a person within the archival institution or a staff member of the archival institution's parent body. The decision on the appeal may be final or, in the case of government records, an appeal to an independent tribunal may be possible.

55. The user requesting review of an access decision is informed in writing of the outcome of the appellate review. If a further appeal is possible, the user is informed of the steps and timetables for that appeal.

56. When an appeals body or independent tribunal changes the original decision to restrict, archivists review access decisions made on similar grounds to see if additional materials can be released. Precedents set by the appeals procedure are documented in the precedent file; archivists may develop local guidelines on restrictions to assist in their consistent application.

57. Principle 10 of the International Council on Archives' *Principles of Access to Archives* says, "Archivists monitor restrictions, reviewing archives and removing restrictions that are no longer applicable." Archivists periodically review restricted records to determine whether any items can be released. If the restriction is based on the age of the material, an annual review will release any material now falling within the 'open access' period. If material is restricted for privacy or other grounds with an indeterminate timetable, the archival institution conducts a periodic internal review to either confirm or lift the restriction. Archivists also review restricted items after specific events, such as the death of a person who is the subject of the restricted information.

L. Release previously restricted material.

58. Principle 5 of the International Council on Archives' *Principles of Access to Archives* says, "When a closed item is reviewed and access to it is granted to a member of the general public, the item is available to all other members of the public under the same terms and conditions."

59. When restricted information can be released, the access restriction process is reversed:

- a. replace the restricted items in the original file;
- b. if paper, remove the withdrawal sheets (or line out the released items if a single withdrawal sheet is used for multiple items) and redacted copies and place them in the access control file;
- c. record the new access decision in publicly accessible finding aids;
- d. if information about the item was restricted in the finding aids, restore the information;
- e. if digitized copies were made available online, add new copies including the newly-released content.

60. The result of the review is recorded in the archival institution's control file: the reason the restricted information was released, under what authority, and the date it was released. Data protection legislation may prohibit the inclusion of the identity of the user whose request led to the release of the information. The control file retains the evidence of which materials were restricted in the past. The control file is retained permanently.

Appendix A

Sample Access Policy for an Archival Institution

Introduction

The ***** Archives is committed to the principle of providing maximum access and to making research materials available to users on equal and fair terms of access. It is the responsibility of the ***** Archives to balance the researcher's need for access with the needs for confidentiality of persons and institutions whose activities are reflected in the materials. Consequently, the use of some materials in the ***** Archives, especially those of recent date, may be subject to restrictions.

The ***** Archives manages two type of restrictions. General Restrictions apply to particular kinds of information or designated classes of materials wherever they may be found among the holdings of the ***** Archives. Specific Restrictions are specified by the transferring agency or donor and apply to a specific body of material, sometimes for a specific length of time.

Principles

Scope. All records of the ***** , in any physical format, that have been appraised as permanent, may be released for public access unless the records contain information that falls within one or more of the General Restriction categories in this policy or are governed by a Specific Restriction.

General Restrictions. Records containing the following information are restricted until the passage of time is such that, in the judgment of the director of the ***** Archives or other competent authority, the interests in favor of access outweigh those in favor of confidentiality. These general restrictions are established pursuant to _____ (authority, such as a statute or an action of a governing board) of _____ (date). [Note: If a single authority does not exist, a separate authority line may be added to each of the restrictions as part c.] These restrictions do not apply to regular employees of the ***** Archives in the performance of normal archival work on such materials.

General Restriction 1. Materials containing information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of a living person.

- a. *Definition.* Materials containing information about a living person which reveal details of a highly personal nature which, if released, would constitute a clearly unwarranted invasion of privacy, including but not limited to information about the physical or mental health or the medical or psychiatric care or treatment of the individual, and which personal information is not known to have been made public previously.
- b. *Restrictions.* Such materials may be disclosed only:
 - i. To the named individual or his authorized representative, provided that access will not be granted if the records are restricted pursuant to any other general or specific restrictions; or

- ii. If the individual or his legal representative agrees to its release; or
- iii. To those officers and employees of the office of origin or its successor in function who have a need for the information in the performance of their official duties; or
- iv. To the Donor of the materials or to the Donor's designee, pursuant to the provisions of the Donor's deed of gift; or
- v. To researchers for the purpose of statistical or quantitative medical or psychiatric research when such researchers have provided the ***** Archives with written assurance that the information will be used solely for statistical research or reporting and that no individually identifiable information will be disclosed by the researcher's work.

General Restriction 2. Materials restricted by statute, executive order, or court order.

- a. *Definition.* Materials containing information, the access to which is restricted by statute, executive order, or court order.
- b. *Restrictions.* Such information may be disclosed only:
 - i. In accordance with the provisions of such statute, executive order, or court order.

General Restriction 3. Materials containing confidential employment or personnel information.

- a. *Definition.* Materials containing information on terms of appointment, employment, performance evaluation, disciplinary action, and similar personnel matters.
- b. *Restrictions.* Such information may be disclosed only:
 - i. If the information is a summary statement of service; or
 - ii. If the information does not identify particular individuals; or
 - iii. If the individual or his legal representative agrees to its release; or
 - iv. If the individual is deceased or the passage of time is such that the individual may be presumed to be deceased; or
 - v. To those officers and employees of the office of origin or its successor in function who have a need for the information in their performance of their official duties; or
 - vi. To the Donor of the materials or to the Donor's designee, pursuant to the provisions of the Donor's deed of gift.

General Restriction 4. Materials relating to investigations.

- a. *Definition.* Materials containing information related to or compiled during an investigation of individuals or organizations.
- b. *Restrictions.* Such information may be disclosed only:
 - i. If the release of the information does not interfere with ongoing litigation or similar proceedings, *and*
 - ii. If confidential sources and information are not revealed, *and*
 - iii. If confidential investigative techniques are not described, *and*
 - iv. If the release of the information would not endanger the safety of persons, including law enforcement personnel; or

- v. To those officers and employees of the office of origin or its successor in function who have a need for the information in their performance of their official duties; or
- vi. To the Donor of the materials or to the Donor's designee, pursuant to the provisions of the Donor's deed of gift.

General Restriction 5. Materials containing confidential business and financial information.

- a. *Definition.* Materials containing trade secrets or commercial or financial information that was obtained from a private source with an expressed or implied understanding of confidentiality or information prepared or obtained by the government for the regulation and supervision of financial institutions.
- b. *Restrictions.* Such information may be disclosed only:
 - i. If the information consists of statistical totals or summaries and does not disclose the source of the information or identify individual parties; or
 - ii. If the party with whom the confidential relationship has been established agrees to its release; or
 - iii. To those officers and employees of the office of origin or its successor in function who have a need for the information in their performance of their official duties; or
 - iv. To the Donor of the materials or to the Donor's designee, pursuant to the provisions of the Donor's deed of gift; or
 - v. If the passage of time is such that the release of the information would not result in substantial competitive harm or prejudice to the parties identified in the materials.

General Restriction 6. Materials containing information regarding confidential decision-making.

- a. *Definition.* Materials containing information that was given in confidence in the period before a determination was made, including but not limited to advice given by attorneys, physicians, public accountants, and advisers.
- b. *Restrictions.* Such information may be disclosed only:
 - i. If the decision has been made public and the nature of the determinations leading to the final decision is known; or
 - ii. If the passage of time is such that release of the information would not impede current decision-making; or
 - iii. If the public interest in disclosure outweighs the continued need for confidentiality.

Equal and fair access. Records that have been made available to one member of the general public will be made available to all other members of the general public on the same terms and conditions.

Access under the provisions of The Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (2005) of the United Nations High Commission on Human Rights: Victims of serious crimes under international law have access to archives that provide evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public.

Access for former officials. A former official of an entity whose records are held in the ***** Archives may have access to records that he/she originated, reviewed, signed, or received while serving as an official of the entity.

Prior release. Records that contain information within one of the categories above and that officially have been made public before their transfer to the ***** Archives, regardless of age, shall continue to be public.

Partial release. When only some portions of a document are covered by a restriction, the confidential portions will be redacted and the remainder of the document will be made available, if feasible.

Administration of Access

Research application. Any person may apply to use archival records in the ***** Archives. The applicant is not obliged to state reasons for the application in order to have access to records. If the application submitted by the person is not sufficiently precise to permit identification of the records sought, the ***** Archives shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing finding aids to the archives.

Initial request determination. Applications for access are answered in 15 working days from date of receipt of the application.

Duplication and fees. Records disclosed may be duplicated for applicants, providing that the copyright status of the item permits copying. The costs of producing and sending copies may be charged to the applicant.

Appeals. If access is denied or if the ***** Archives does not respond within 20 working days from receipt of the application, the applicant may appeal to the ***** appeal body. The appeal board consists of the ***** or their designees. The director of the ***** Archives serves as secretary to the board. The decision of the appeal board is final.

This policy is effective [date]. Issued by [name and title]

Appendix B

Sample Decision Chart: Preliminary Steps in Determining Access

1. Are requested records in the custody of the archival institution? If yes, proceed to question 3. If no, then:
2. Does the archival institution know what institution or person has or is likely to have the records? If yes, transfer the request or inform the applicant where the records are held. If no, write to the requester that the whereabouts are unknown.
3. Are the requested records already public? If yes, inform the requester that the records are available. If no, then:
4. Are the records restricted for a set period of time that has not yet elapsed? If yes, deny the request. If no, then:
5. Have the requested records been reviewed for disclosure within the last two years and denied? If yes, deny the request. If no, then:
6. Are these records prima facie restricted by any specific provision of law, regulation, or donor deed? If yes, deny the request and provide user with appeals information. If no, then:
7. Begin review.

Appendix C

Sample Withdrawal Sheet (Restriction Notice): Single Item

In the review of this file the item identified below has been withdrawn according to the restriction noted below.

Fonds, subfonds:

Series:

File title:

Form:

Date:

To:

From:

Subject:

Authority for the restriction

- (1) protection of the privacy of living individuals
- (2) information restricted by statute, executive order, or court order
- (3) confidential employment or personnel information
- (4) information relating to investigations
- (5) confidential business and financial information
- (6) confidential decision-making
- (7) information relating to national security

Authority for the restriction in the donor's deed of gift _____ [number of restriction]

Withdrawn by:

Date:

Appendix E

Sample Withdrawal Sheet (Restriction Notice) Definitions

Form. Form means the type of item: letter, memo, memo with enclosure (memo w/encl), routing slip (rtg slip), routing slip with attachment (rtg slip w/attach), radiogram, telegram, report, email, volume, still photograph, map, audiotape, videotape.

To. The person to whom the item is addressed. This can be a person, an organization, or "Files." Unless the personal name is very short, in which case the whole name can be used, use initials for first and middle names and full surname: T.H. Peterson.

From. The person who created the item. If an item is drafted by one person but authorized by another, use the name of the person authorizing the message.

Date. Use numbers in ISO standard format year-month-day: 1981-04-14.

Title and subject. The title given to the item by the creator and the subject of the item. For formal items sent with control numbers, enter control number of the creator here and the title of the item. If the subject itself would reveal the reason for the restriction omit the restricted information (for example, "Allegations of criminal activity by [name restricted]").

Number of pages. The number of pages with information. If both sides of a single sheet have information, that is 2.

Classification. National security marking.

Restriction #. This should be the general reason for the restriction, identified by provision of law, regulation, general restriction or donor's deed of gift; for example, "Freedom of Information Act 16/c" or "deed of gift 4(b)."