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Privacy and Access in the Massachusetts Society for the Prevention of Cruelty to Children Records

Jessica Holden and Ana Roeschley

ABSTRACT

Archival collections that include records about victims and survivors of child abuse present unique challenges regarding privacy, access, and representation. With a long tenure of collecting on the history of social welfare, University Archives and Special Collections (UASC) in the Joseph P. Healey Library at the University of Massachusetts Boston had to address these challenges before processing and making available the historic inactive records of the Massachusetts Society for the Prevention of Cruelty to Children (MSPCC). UASC and the MSPCC took steps to ensure that the MSPCC collection would be accessible to the survivors represented in the records and to their descendants, while also providing appropriate access to the collection for the wider public. To protect the privacy of any former MSPCC clients who may still be living, the MSPCC and UASC collaborated to establish a set of policies that can be adapted by archives working with similar collections.

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KEY WORDS

Children's records, Donor agreements, Privacy,
Processing, Survivors of violence

Archives that collect materials on the history of social welfare movements and groups help to ensure that marginalized individuals have a place in the archival record. Such archival representation is meaningful for both the individuals whom the records document and for their descendants. The University Archives and Special Collections (UASC) department in the Joseph P. Healey Library at the University of Massachusetts Boston has a long history of collecting in this area. In the case of the records of the Massachusetts Society for the Prevention of Cruelty to Children (MSPCC), UASC faced unique challenges regarding privacy, access, and representation.

These unique challenges arose, in part, because records created about marginalized individuals carry a number of implications. Records of child survivors of violence can be especially sensitive. They are often created and preserved without the consent of the documented individuals. These records are also often the only historical evidence and representation of child survivors of violence in archival records. Preserving these records is delicate work that requires archivists to protect the privacy of the subjects of the records while also providing some level of research access to the records.

While preparing to process the MSPCC collection, UASC needed to take both privacy and access into serious consideration. We needed to ensure that the MSPCC collection would be accessible to the survivors represented in the records and to their descendants while protecting a reasonable expectation of privacy. To protect the privacy of any former MSPCC clients who may still be living, the MSPCC and the University of Massachusetts Boston collaborated to establish a set of access restrictions, which we explain in further detail later in this article.

Literature Review

Archivists have long faced issues of sensitivity, privacy, and access restrictions.¹ A plethora of literature exists on archival care of records that may include sensitive materials and the restrictions enacted through this process.² As the literature shows, records may be deemed “sensitive” for a variety of reasons. These include government records withheld to protect political interests,³ records restricted based on donor wishes,⁴ and records restricted to protect the individuals and communities depicted in the records.⁵ Such records reveal a central tension for archivists that Steven Bingo describes as the “concerns regarding the unintentional censorship of materials caused by restrictions on one hand and maintaining the trust of donors and third parties on the other.”⁶

Ashlyn Velte explains, “Balancing access and privacy is a fundamental exercise for archival professionals. Access policies take into consideration applicable privacy laws and relevant donor restrictions to help archivists make consistent equitable decisions in providing access to materials.”⁷ The Society of American

Archivists' "Core Values Statement and Code of Ethics" reflects the need for balance between access and privacy, arguing that access "is essential in personal, academic, business, and government settings, and use of records should be both welcomed and actively promoted," and that "archivists place access restrictions on collections to ensure that privacy and confidentiality are maintained, particularly for individuals and groups who have no voice or role in collections' creation, retention, or public use."⁸

Both archival access and the entitlement to privacy are indelible human rights. Access to archives empowers individuals and communities. As Graham Dominy states, "Access to archives is essential for ensuring long-term accountability and the learning of lessons from past events and past errors."⁹ Nevertheless, privacy and autonomy over one's representation in archival records are also innate rights that archival scholars and practitioners need to respect. As the Karuk Tribe et al. explain in the case of colonial archival practices, archival records on Indigenous communities often perpetuate injustice because they do not respect the communities' needs for privacy and archival autonomy:

To this day, institutions are seldom able to produce the informed consent of Native sources and/or a bill of sale between those early Native sources and the non-Native collectors; at the same time, the argument they assume establishes their "right of possession" falls short of justice: This missing link remains widely unacknowledged.¹⁰

In addition to the ethical ramifications that come with archival collections of sensitive materials, legal issues have also played into how such collections are accessed and by whom.¹¹ Recently, the case of the Boston College Belfast Project brought international attention to archival holdings of sensitive and controversial records. In investigating this case, Krista White found "gaps between the ethical emphases of the different professional organizations' policy manuals."¹²

Clearly, records deemed "sensitive" pose a set of ethical and legal challenges for archives and archivists. However, this is not to say that archives should not collect or process collections that may contain sensitive materials. In fact, archival representation is also a human right.¹³ In this vein, Michelle Caswell, Marika Cifor, and Mario H. Ramirez warn that marginalization and misrepresentation in the archival record lead to feelings of symbolic annihilation.¹⁴ Anne Gilliland also addresses issues of archival representation, advocating for cocreatorship in the archives "as a way to acknowledge, give voice to, and describe the roles of those who were involved with the creation of the record and its metadata as contributors, subjects, victims, or legatees rather than as the official authors."¹⁵ Though records of a "sensitive nature" can seem troublesome and not worth the hassle of prioritizing in an archives' workflow, as Lorraine Dong makes clear, such records can demonstrate "the ability for records to have multiple 'lives' that can touch many individuals beyond a single human lifetime."¹⁶

As archival praxis evolves, the focus on processing backlogs is being renewed. In describing historical medical records with sensitive information, Lorraine Dong, Polina Ilieva, and Aimee Medeiros explain that such records “remain relatively undiscoverable and at risk for destruction, however, because of their restricted content and challenging media formats.”¹⁷ While new technologies allow for and bring about solutions for the processing of such collections, this does not mean that technological innovations are a panacea to these issues. The advent of digitization, online finding aids, and digital online collections has further complicated the issues of archival access and privacy.¹⁸ Restrictions are especially important to consider “when converting collections to a digital format. This is especially the case when donors gave materials prior to the digital age when reformatting of records for mass consumption by a worldwide audience became possible.”¹⁹

Like all documents, records about child abuse victims and survivors serve evidentiary and memory functions. However, these records are also deeply sensitive embodiments of trauma, and it is important to understand how privacy and records restrictions are handled in cases of records that embody trauma specifically. Amanda M. Pike describes the challenges faced by archivists responsible for such sensitive records through an investigation of the records of the Archives of the Boston Archdiocese, which document the widespread abuse of children by the clergy. Pike explains that literature on records that document child abuse “fails to account for the persons in charge of maintaining this evidence and the ethical implications of discovering documentation of illegal activity.”²⁰ Pike advocates for clearer and more stringent professional standards for archivists handling such records.

Kaisa Vehkalahti also addresses childhood abuse records, stating, “When analyzing child welfare sources—such as case records, forms of personal information, applications or resolutions produced by professionals—it is important to problematize whose voices are heard and recorded in the archives, and why.”²¹ These records are often incomplete or disorganized, privilege the powerful, and contain traumatizing information for survivors.

A care for survivors and victims of abuse represented in archival records speaks to an “affective orientation” in archival theory and praxis. Described by Daniela Agostinho, an affective archival orientation “towards the documented subjects—those for whom the records have enduring consequences—represents a radical shift in the archival encounter, premised as it is on ethical responsibility rather than liberal modes of access.”²² Similarly, Michelle Caswell and Marika Cifor argue that an affective approach focused on radical empathy in archival practice can “make survivors and implicated communities not just a target group of users, but central focal points in all aspects of the archival endeavour, from appraisal to description to provision of access.”²³ James Lowry explains that such an approach requires archivists to reflect on their positionalities and

on how archival practices affect individuals documented in the records in archival care. Lowry asks, “How are we archivists empathising with the creators, subjects, users and communities of these records?”²⁴

Much of the emerging literature on social justice and archival records regarding child abuse survivors tackles records about individuals who were in foster or residential care as children. Heather MacNeil, Wendy Duff, Alicia Dotiwalla, and Karolina Zuchniak decry poor recordkeeping practices as having a demonstrably negative impact “on the ability of former residents to gain a better understanding of their life in residential care as a first step in achieving that justice.”²⁵ Similarly, Joanne Evans, Sue McKemmish, Elizabeth Daniels, and Gavan McCarthy explain, “improved access to records is paramount to the emotional, medical and psychological health, financial security and right to legal restitution of impacted communities.”²⁶ However, Cate O’Neill found that the National Archives of Australia “has greatly improved the accessibility of its child endowment records, but radical transformation is required for these records to be truly reclaimed by Care Leavers.”²⁷

Pekka Hennttonen explains that the archival field finds itself at “the focal point of privacy issues, because it exists precisely to transfer information in usable and understandable form from one context and point in time to another context and time.”²⁸ In the cases of records about child abuse victims and survivors, this transfer needs to be strategic and tactful. Illustrating this point, Nigel Taylor describes the deliberation on appropriate closure periods for court records at the UK National Archives. Taylor states, “As these type of records include many custody and child maintenance cases there is some justification for the extended closure period.”²⁹

Literature on privacy and archival records provides a number of questions and considerations that archivists need to address when managing sensitive collections. Katherine M. Wisser and Joel A. Blanco-Rivera explain, “there are tensions with concepts of custody, privacy and individual rights.”³⁰ In looking at archived medical records, Dong asks if archives “balance the need to protect individuals’ privacy with the impetus to preserve our cultural record.”³¹ Mpho Ngoepe and Sidney Netshakhuma describe a solution for such a question in South African Liberation Archives, where record subjects make the final decision if their records are private or publicly accessible.³²

Case studies in particular are a helpful method of developing practical solutions for archival problems regarding privacy and access. Diane E. Kaplan discusses the difficult case of the Stanley Milgram Papers and the sensitive information about research subjects whose mistreatment led to historic changes in the ways human subjects are treated. Kaplan says, “By sanitizing files, that is by blocking out subjects’ names, we could protect the privacy of Milgram’s subjects and provide access to otherwise restricted files.”³³

It is also useful to examine the development of archival policies for record collections deemed sensitive or “charged.” Valerie Harris and Kathryn Stine describe how a legal case regarding the Chicago Annenberg Challenge records led the Special Collections Department at the University of Illinois to develop not only “new collections management policies and procedures” but also an “an attuned sensitivity to balancing donor obligations with researcher needs in the wake of a university-wide public relations crisis.”³⁴

Similarly, Laura Farley and Eric Willey explore the case of the Wisconsin School for Girls collection housed at the Wisconsin Historical Society. The authors describe the steps necessary to selectively digitize parts of the collection while maintaining the privacy of endangered minors depicted in the records and their descendants. Farley and Willey argue that, while it is of utmost importance to protect the privacy of records’ subjects and their descendants, it is also important that individuals in the records have “a chance to be heard and understood.”³⁵

Case Study

In light of these concerns of privacy and access in collections of child abuse records, a case study that may help archivists develop their own set of solutions is the Massachusetts Society for the Prevention of Cruelty to Children records at the University of Massachusetts Boston.

SOCIAL WELFARE COLLECTIONS AT THE UNIVERSITY OF MASSACHUSETTS BOSTON

When the University Archives and Special Collections (UASC) department in the Joseph P. Healey Library at the University of Massachusetts Boston was founded in 1981, it established its first collecting area on the history of the social welfare movement in nineteenth- and early twentieth-century Boston. UASC took in a number of historic record collections documenting local orphanages, settlement houses, and other relief organizations, including the Boston Female Asylum, the Boston North End Mission, the Gwynne Temporary Home for Children, and the Boston Children’s Aid Society. These records provide a history of the work of these agencies and of the people they served: the poor, the marginalized, and the traditionally underrepresented in the historic record. This collecting area aligns with the urban and community-focused mission of the University of Massachusetts Boston, and this body of archival materials continues to grow, with more than twenty-five collections to date. While UASC holds administrative records from many of the aforementioned organizations through the 1960s, the department only holds client records from those

agencies through 1929, with the exception of those from the Massachusetts Society for the Prevention of Cruelty to Children.

MASSACHUSETTS SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN

The first social welfare collection that UASC acquired comprised the inactive records of the Massachusetts Society for the Prevention of Cruelty to Children (MSPCC). Unlike most of the other social welfare records in UASC's custody, the MSPCC records include detailed documentation of child abuse and neglect, and comprise an additional ten years of client records (through 1939), making them an especially sensitive collection.

Still an active organization today, the MSPCC has its roots in the 1874 court case of Mary Ellen Wilson, the first recorded child abuse case in the United States. Mary Ellen Wilson (1864–1956), a child living in New York, was severely abused by her foster parents, Francis and Mary Connolly. When a neighbor noticed the abuse and looked for an agency to which she could report it, she found that no laws against child abuse existed, so she contacted the Society for the Prevention of Cruelty to Animals (SPCA). The SPCA agreed to take her case to the New York State Supreme Court, and, after a successful trial, the New York Society for the Prevention of Cruelty to Children was established in 1875. The MSPCC was founded in Boston three years later “for the purpose of awakening interest in the abuses to which children are exposed by . . . parents and guardians, and to help the enforcement of existing laws on the subject, procure needed legislation and for kindred work.”³⁶ The work of the MSPCC resulted in a number of social welfare milestones throughout the organization's history, including the banning of exhibiting deformed children for money in 1884; the regulation of boarding homes (or “baby farms”) with the Boston Board of Health in 1889; the founding of the Child Welfare League of America in 1920; the establishment of national “Standards for Child Protective Service” in 1959; the establishment of Massachusetts's “Mandated Reporting Law” (Chapter 119/Section 51A) in 1973; and the creation of Massachusetts's Department of Social Services (now known as the Department of Children and Families) in 1980.

COLLECTION PROVENANCE

In August 1980, the MSPCC placed 255 linear feet of historic administrative and client records on deposit at the University of Massachusetts Boston, and this early collection helped formally establish the University Archives and Special Collections department the following year. The MSPCC placed an additional 5 linear feet of materials on deposit with the university in 1993. The

collection included inactive client records dating from the MSPCC's founding in 1878 through 1939, including agents' journals, case registers and files, and photographs, as well as administrative files from 1878 to 1980, including annual reports, correspondence, subscribers lists, and publications written both by and about the MSPCC.

As sometimes happens in archives, the collection remained on deposit with the university for many years, rendering it largely inaccessible to researchers. Without a signed deed of gift, UASC was unable to process the collection, and the original client case folders were incredibly fragile, often crumbling at the touch. In addition, while the case records once had a corresponding card index, that index was lost at some point prior to the deposit at the University of Massachusetts Boston. This meant that when researchers requested access to records, staff could spend hours physically searching through the records, and because they were not processed, each search further damaged the original folders. In 2016, after more than thirty-five years of limited access, time-consuming searches, and lack of physical preservation, the department decided that this needed to change. Either the MSPCC would sign over ownership of the records to the University of Massachusetts Boston so that UASC could properly care for the collection, or the university would return the records to the MSPCC. After many months of close collaboration and communication, the University of Massachusetts Boston and the MSPCC signed a deed of gift that both parties found mutually agreeable.

PROTECTING PRIVACY

The most important consideration for both the MSPCC and the University of Massachusetts Boston while working out the terms of the deed of gift was to protect the privacy of the individuals named in the case files. The records contain incredibly sensitive information, such as detailed narrative descriptions of child abuse and neglect. To protect the privacy of any former clients who may still be living, the MSPCC and the University of Massachusetts Boston established a set of restrictions on the collection:

1. Ownership of and research access to the client case records in this collection are controlled based on the date a case record was closed and the family status of the researcher as follows:
 - a. Case records closed more than 100 years ago are property of the Joseph P. Healey Library and are open for research.
 - b. Case records closed less than 100 years ago are the property of the MSPCC. MSPCC-owned records are available only to former MSPCC clients or to direct descendants, and to current staff of the MSPCC.

2. All readers of the MSPCC records collection shall submit a Reader Registration Form as provided by University Archives and Special Collections at the Joseph P. Healey Library.
3. Records may be delivered in digital format to researcher(s) provided the records are owned by the Healey Library or the researcher(s) are former MSPCC clients or direct descendants of clients. Such researcher(s) must confirm in writing acceptance of the condition that the records will not be posted on any public website.³⁷

UASC and the MSPCC decided to implement a one-hundred-year access restriction on the case files, operating under the assumption that former clients who were under the MSPCC's care more than one hundred years ago are probably now deceased. The one-hundred-year restriction protects the privacy of living former clients, while also providing researchers with a substantial body of historic case records to work with—as of the writing of this article, forty years of case files are open for research (1878–1918).

When researchers request access to records less than one hundred years old, UASC first requests permission from the MSPCC to release the records to said researchers given that they are either former clients or direct descendants. UASC then confirms direct descent by requiring researchers to provide copies of their own birth certificates and either the death certificate of their parent/grandparent who was in the MSPCC's care, or written confirmation from that former client to release the record to their descendant. All researchers, whether clients or descendants consulting their own records, or anyone else consulting the older, open records, must complete a reader registration form on which they list their contact information and agree to the restrictions listed previously.

The MSPCC and UASC included a clause in the deed of gift prohibiting online publication of digital copies of the records to prevent private information from being disseminated online and accessed by those who do not have permission to view the records.

The deed of gift also includes a clause in which the “MSPCC agree to offer reasonable accommodations to researchers of the MSPCC collection who have a familial relationship to a person or persons whose names appear in the MSPCC collection (‘related researchers’). For example, a related researcher may ask for an MSPCC social worker to be present during the reading of the files.” Related researchers often find painful information in the case files, which the presence of an MSPCC social worker during the research visit may at least somewhat mitigate. While at the time of the writing of this article no researchers have yet used this service, UASC notifies every related researcher that the service is available, and many related researchers have expressed appreciation that the option exists. It is important for archivists to recognize the secondary trauma that their researchers may experience while using these types of records. Other

archival repositories may consider establishing a similar agreement with their donors who are in the social work profession, if possible.

PROVIDING ACCESS

As soon as the two parties signed the deed of gift in 2016, UASC began the intensive work of making the collection accessible to researchers. The first step was physically processing the case files. While the inner documents of each case file were in relatively stable condition, the outer folders were literally crumbling. Fortunately, the only information written on each outer folder was the case number and parents' names. With the help of student employees (both undergraduate and graduate), UASC began processing the case files, keeping the inner documents in their original order and writing the case numbers and family names on the archival folders that replaced the originals. By processing the records, UASC immediately made the records more accessible, because the folders no longer crumbled every time staff handled them.

In addition to physical processing, UASC started an indexing project for the case files. Staff created an Excel spreadsheet for internal use that included case numbers, dates of MSPCC interactions with clients, and parents' names and addresses. Student employees entered this data into the spreadsheet from bound registers that corresponded with the case files. This has been a laborious process—to date, only seven years of records have been indexed. However, now searches for those earliest records can take a matter of minutes rather than hours. This simple, no-frills project has solved a substantial years-long problem.

In addition to the client case files, the MSPCC collection contains several other types of materials. Client photographs date from 1880 to 1970, and many of them show clients with visible signs of abuse. UASC provides the same level of access to client photographs in the collections as it does to case files: those that are more than one hundred years old are open for research, and those that are one hundred years old or less are restricted and may only be accessed by MSPCC staff or former clients and their descendants. Photographs of client dwellings and MSPCC buildings, which do not include people, date from 1893 to 1968 and are open for research. Administrative records from the MSPCC, such as annual reports, Board of Directors meeting minutes, and publicity materials, are all open for research regardless of creation or publication date.

Discussion

The Massachusetts Society for the Prevention of Cruelty to Children records is the most sensitive collection in the University Archives and Special Collections department. Protecting individuals' privacy was the biggest concern

for the University of Massachusetts Boston and the MSPCC when they drafted the terms of the deed of gift. However, both parties recognized that they should make the records accessible to former clients and their direct descendants. Survivors of violence often face barriers when trying to access their own records in archival repositories, and UASC did not want that to be the case with this collection. The University of Massachusetts Boston is a public university, and, in that spirit, UASC continually strives to make its collections as accessible as possible. UASC also recognizes the historic value of the oldest records, as they document the burgeoning social work movement of the 1800s. By studying the older records in aggregate, historians, sociologists, and other researchers may learn a lot about this important organization and the ways that it served victims of abuse in nineteenth-century Boston.

The greatest aids to finalizing a deed of gift for both the MSPCC and the University of Massachusetts Boston were open collaboration and clear communication about each of their goals and expectations for the collection. The MSPCC, as a still-active organization, needed full access to the collection to best serve its clients. The University of Massachusetts Boston needed partial ownership of the records (with one year of records rolling over into its ownership annually) to devote resources and staff time to processing the collection. By granting the University of Massachusetts Boston ownership of the records one hundred years old and older, the two organizations were able to make a significant body of archival materials openly available for research. By retaining ownership of the more recent records, the MSPCC ensured that its clients' information remained private. Only by giving up some control—which is often difficult for archives to do—were UASC and the MSPCC able to find a solution that worked for both organizations. Although twenty years of client case files remain under the ownership of the MSPCC as of this writing, by 2039, the University of Massachusetts Boston will own and be able to provide full access to the entire collection.

Other archival repositories may look to this case study to create access policies for their own collections that document survivors of violence or generally contain personally identifiable information. With a large body of records, like this collection, one hundred years may be a good cut-off point for many archives. Other repositories may choose to follow the United States Census Bureau's "72-Year Rule,"³⁸ as the University of Massachusetts Boston has done for other collections in its custody (such as the Massachusetts Catholic Order of Foresters records). Repositories might also model their restrictions on the HIPAA Privacy Rule,³⁹ which protects health information for fifty years after the date of death of the individual. We encourage archivists to be open to new ideas and willing to collaborate with their donors, while still protecting their own institutional needs. Flexibility, the willingness to reasonably and rationally compromise, and finding creative solutions (such as co-ownership of a collection between an archives and

a donor or creator) can all help ensure balance between protecting the privacy of survivors of violence, respecting those individuals' voices and lived experiences, and allowing research access to incredibly important archival materials.

Conclusion

The Massachusetts Society for the Prevention of Cruelty to Children records is a uniquely sensitive collection in the University of Massachusetts Boston's care. More than any of the university's other social welfare collections, these records require the utmost attention to privacy. At the same time, the records are of great research value for historians and other scholars, and the university needed to ensure some level of access to them. Only by closely collaborating with the records' creator and donor, the MSPCC, was the University of Massachusetts Boston able to appropriately respond to both of these concerns and create a deed of gift that both protected the privacy of individuals named in the records and allowed a reasonable amount of public access. A one-hundred-year restriction both permits access to a large percentage of the client records (currently forty years' worth of materials) and protects the privacy of any living individuals formerly under the care of the MSPCC.

Archivists should do everything in their power to respect the lived experiences of survivors of violence. While this method of creating access and use restrictions in deeds of gift is not new, balancing privacy and access is a fundamental priority for archivists, and this case study presents a workable, feasible solution to navigating the delicacies of sensitive record collections and ensuring that survivors' stories are not lost to history.

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