

AN ENFORCEABLE CODE OF ETHICS:
WHY ARCHIVISTS SHOULD BE DEMANDING ONE

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In this paper, I am stating the case for archivists to clamor for an enforceable code of ethics. I first try to set forth the scope of what archives are and what archivists do, including the task they are claiming as the guardian of social memory. I then briefly examine what ethics are and the functions served by codes of ethics. I next explore the development of archival codes of ethics. I then state the case for archivists as a profession to clamor for an enforceable code of ethics. The thrust of my argument is that given archivists' desire to be the guardian, and performer, of society's memory, an enforceable code of ethics is a required both for archivists recognition and relations among themselves of their identity as a profession and for the general public's entrusting archivists with the responsibilities they are claiming..

Background

Archives and Archivists

What are archives and what roles do archivists fulfill are questions that are at best poorly understood by the general public, and may even receive murky and conflicting answers within the profession. Part of the confusion arises from the overlap of functions archivists perform with the roles of other professionals who provide access to, and understanding of information: librarians, curators, historians and even records managers. One of the ways of differentiating between the work of archivists and that of librarians has been the notion that archivists deal with unpublished works and librarians handle published works. While this might have been a practical starting point in the past, there are unavoidable weaknesses in this method of distinguishing the two fields. First, archival collections encompass more than the writings of an individual or organization; they include items which have been acquired in the course of daily activity including books and other published materials. Second, as examined further below,

technology has advanced and the definition of publishing in a world of personal computers, the internet, email, blogs, wikis, tweeting and digitization has ballooned far beyond the traditional notions of books and periodicals. There also are no bright line delineations distinguishing the materials each of these groups handles – when is a group of materials an "archives" and when is it a "special collection"? Adding to the ambiguity is the fact that in addition to facilities called archives and repositories, libraries, museums and research centers also frequently maintain some of their materials in what are identified as "archives."

Cox and O'Toole (2006) attempt to bring some clarity to the conception of what archives are, putting forward the notion that, contrary to the popular perception that archives refers to "old stuff," they are valuable records that have "content, meaning and enduring usefulness." This provides a basis for understanding, but requires a further look at what records are. Records, recorded information, which originally referred to written records, has expanded with our technology to incorporate typewritten materials, audio recordings, computer printouts and today might include images on computer screens and information which exists ephemerally as electrical impulses stored in digital formats, lacking the physical characteristics one normally associates with records. As noted above, a further layer of complexity is added since archives, in addition to writings, also include artifacts which, although not records in the ordinary usage of the term, should be viewed as records for archival purposes. All of these different forms can be a part of the materials today referred to as archives. Summing up, an archives can be thought of as a collection of the records of a person or group "with an array of values that mandate their continuing maintenance." (Cox & O'Toole, p. xii)

Archivists work with archives. According to Cox and O'Toole (2006), archivists use their talents first to save the permanently valuable records of individuals and groups, then to

organize those records in a systematic and coherent way and finally (and most importantly) to make those records and the information they contain available. This description oversimplifies the role archivists play in today's world, but perhaps is a place to begin looking at the historical duties performed by archivists. Until relatively recently, the prevailing idea was to save everything. With the explosion in growth of records, it is now widely recognized that not everything can be saved, leading to selection as an essential element of the archivist's job.

The archival profession emerged from the growth of the historical profession at the end of the nineteenth century and the concurrent emergence of a concern for taking care of the sources of history. (Cox & O'Toole, 2006) Another surge of growth occurred in the 1930s with the establishment of the National Archives and the creation of the Society of American Archivists. There was also increased interest in archiving in the library world, primarily in the areas of preservation and conservation.

Today, archivists select, arrange, preserve and provide access to materials. Archivists are increasingly claiming the role of protector of society's memory. As the body of professionals selecting what materials get saved, archivists are inescapably shifting their role from neutral presenters of information for others to interpret to being inextricably involved in the shaping of society's knowledge and understanding of itself. This is a responsibility which is growing in difficulty as new technologies speed the pace at which decisions must be made, eliminating time to develop perspective and evaluate context. To successfully take on these self-appointed tasks will require the trust and confidence of the public.

Ethics

Ethics and morals are terms which are often used interchangeably; however, they have distinct, if subtle and related, meanings. Morals define personal character, while ethics refer to

the social system in which morals are applied. In other words, ethics point to standards or codes of behavior expected to be observed by members of a group. (Kayne, R. 2010) For purposes of this paper, the two relevant groups are archivists and the general public, each of which has expectations for how an individual archivist performs his duties.

Ethics have been variously defined as "the rules or standards governing the conduct of a person or the members of a profession," for example, medical ethics (American Heritage Dictionary, 2003) or "the rules of conduct recognized in respect to a particular class of human actions or a particular group, culture, etc.," such as medical ethics or Christian ethics (Dictionary.com, 2010). Dingwall (2004), pointing out that ethics is a field of philosophy, divides the subject into three branches, metaethics, normative ethics and applied ethics, with professional ethics focused on the latter two branches. Cyprus (2010, ¶1) clarifies this, using everyday language to note:

Business or professional ethics are standards or codes of conduct set by people in a specific profession. . . . People in a profession don't want to condone bad, dishonest or responsible behavior if it does occur by someone in their field. By setting out expected behaviors in the form of professional ethics, professionals work together to try to uphold a good reputation.

I will examine later in this paper where on the continuum of "profession" archivists fall, and the bearing a code of ethics plays in such placement. I also will explore how a code of ethics provides a foundation for a relationship with the general public, an essential requirement if we are to successfully take on our self-chosen task of preserving our society's collective memory and understanding of itself.

Code of Ethics

Ethics are co-extensive with the full range of human behavior. In order to establish the parameters of acceptable behavior for its members, a given group or organization will often codify the ethics applicable to its membership. A code of ethics is often defined as "a set of guidelines which are designed to set out acceptable behaviors for members of a particular group, association, or profession." (Smith, 2010, ¶1) Horn (1989) put it somewhat differently, pointing out that a code addresses the responsibilities unique to a profession. Organizations often chose to govern themselves with a code of ethics when handling sensitive issues such as investments or health care. A code of ethics can set a professional standard and increase confidence in an organization by providing outsiders with the framework of ethical guidelines that members of the organization commit to following in the course of doing their work. (Smith)

Codes of ethics perform an important function within a profession, allowing professionals to know what is expected of them and what standards they can rely on their peers to observe. Even more crucial, however, is the role a code of ethics has in providing a public face for a profession. Offering a glimpse of how professionals do their jobs, particularly when difficult choices must be made, codes of ethics are the foundation for establishing the necessary public trust for a profession to have its work the usefulness and necessity for the public good to be accepted, recognized and appreciated. This may be especially important for archivists, as the public is relatively unfamiliar with what archivists do and value provided to society by those activities.

Not all codes of ethics are the same. One way of dividing codes is by looking at whether they are prescriptive or aspirational. Prescriptive codes provide do's and don'ts, generally written as imperatives. Aspirational codes suggest the ideal results which should be targeted. Codes of

ethics tend to be weighed in favor of one or approach or the other, rather than falling strictly within one camp or the other. In either case, a code of ethics is best viewed, and its value is enhanced, if it is viewed as a set of guidelines for dealing with difficult situations, rather than as a set of rules to be rigidly applied, as ethical issues are rarely black and white.

Another way to examine codes is to ask whether they are enforceable. The legal and medical professions are governed by codes of ethics which carry the force of law. Violations are subject to sanctions including loss of license and civil and criminal liabilities. Other professions and groups have codes which have varying degrees of penalties for violation. By way of example, there are a number of codes of ethics which have been promulgated for archivists but there is no legal requirement to adhere to any of them or punishment for violation. However, there can be financial or reputational consequences for failure to follow the principles contained within a code if it is required as a condition of employment or membership in a professional association.

Archival Codes of Ethics

The first formal code of ethics for the archival profession, "The Archivist's Code." was developed by the National Archives for use in the National Archives Inservice Training Program and printed in the *American Archivist* in 1955. (Horn, D.E., 1989) This served as the only written guidance for archivists in the United States for many years. Horn points out a number of weaknesses in The Archivist's Code. Noting that a professional code of ethics is not a collection of moral or legal requirements, he objects to the preachy tone, beginning with the introductory statement "The archivist has a moral obligation to society" He also objects to the number of negative strictures in the document, while admitting it does provide some guidance on professional judgments of archivists and touches all principal areas of archival work.

The Society for American Archivists (SAA) approved its first official code of ethics in 1980. Comparing the SAA Code with "The Archivist's Code," Horn (1989) concluded that the new code did not reject the older code, but expanded it and extended its coverage into additional areas such as collecting policies.

The SAA Code was first revised in 1992, when an ample commentary was added, then again in 2005, when the commentary was removed. (Cox, R.J., 2008) Citing Benedict (2004) Cox states that the reason the commentary was removed was the SAA leadership's conviction that the code was not enforceable, that the usefulness of the code was diminished by the commentary and that the SAA might be subject to legal liability.

Other codes exist, such as the Code of Ethics adopted by the International Council on Archives in 1996. All of these codes try with varying degrees of emphasis to establish guidelines for resolving conflicts which arise from duties owed to the different parties concerned with archives: records creators, donors, researchers and the archivist's institution. (Dingwall, G., 2004; Jimerson, R.C., 2006) In addition, there is need to consider the interest of parties mentioned in the records whose privacy rights might be compromised resulting in embarrassment or more severe consequences from revelation of information contained within such records. The codes also refer to an archivist's need to obey the law, which in these days of terrorism and increased demands for and requirements by the government for secrecy for security, create more and heightened tensions with the principle of providing wide-spread access to materials.

Why Archivist's must Demand an Enforceable Code of Ethics

There are two rationales I will raise in arguing the merits of an enforceable code of ethics for archivists, both of which archivists should rally behind for reasons of self preservation.

Although interrelated and overlapping, my first contention is that archivists need a code to establish recognition among themselves of who they are; my second line of reasoning is the more familiar theme of providing a footing for the public confidence indispensable for the pivotal role archivists are claiming in understanding ourselves as a culture.

Archivist's Self Identification and Professionalism

Archivists consider themselves professionals, but is archiving as currently practiced and understood a profession or merely an occupation or vocation? Harvey (2009) brings together a variety of definitions and understandings of what the characteristics of a profession are. The commonalities are a specialized body of knowledge, derived from research, education and training, public service or working for the public good, governance by a professional or regulatory body, and professional ethics. Language from the Australian Council of Professions (2004) definition of "profession" cited by Harvey highlights the importance of an enforceable code of ethics to a profession:

It is inherent in the definition of a profession that a code of ethics govern the activities of each profession[al]. Such codes require behaviour and practice beyond the personal moral obligations of an individual. They define and demand high standards of behaviour in respect to the services provided to the public and in dealing with professional colleagues. Further, these codes are enforced by the profession and are acknowledged and accepted by the community.

Measured against these criteria, archiving would appear to fall short of qualifying as a profession.

Today, although there is general understanding among the people who practice in the field of what is entailed in archiving, there is no consensus of what qualifies someone to be an

archivist. There are no accepted educational requirements; while there are college curriculums and commercial programs which issue certificates in archiving, there is no industry standard or agreement on what the content of such programs should be. Different viewpoints exist not only as to the value of any such certificate, but where the focus of an archivist's education should lie – within a history department to provide a greater historical understanding of and perspective for creating context for a particular set of materials or the more modern approach of placing archival programs within schools of library and information science.

A code of ethics is obviously not a panacea for all the difficulties confronting archivists in establishing themselves as a fully fledged member in the ranks of professions, but can be a starting point to achieve that status. A code of ethics is a place where standards and norms can be established. It can serve as a centerpiece for identifying core requirements for a professional around which archivists could coalesce. A code of ethics could serve as the basis for archivists to recognize and appreciate themselves as a body engaged in supporting our society to know, understand and appreciate its culture.

An enforceable code of ethics would also have impact on another area related to professionalism. Archivists are employed in all sectors of our economy -- government, not-for-profit and private business. Each of these sectors potentially exposes the archivist to different pressures on how to perform his duties. Government archivists may be subject to political pressure or whims arising from changes in the ruling party; archivists in the not-for-profit sector may feel pressured by the vagaries of donors and the impact on an institution of threatened or actual loss of donations; in the private sector, loss of employment is a risk if one fails to follow the dictates of a superior. An enforceable code of ethics could help alleviate the pressure to

perform in a less than professional manner – the threat to one's livelihood is lessened if potential replacements are bound by the same ethical concerns, and subject to the same guidelines.

To restate, my first argument for archivists to call for an enforceable code of ethics is in order for archivists to be recognized, and recognize their peers, as members of a full fledged profession, and gain the respect and an enhanced opportunity to demand the respect and emoluments consistent with such professionalism. Bolstering this argument is the support a code can provide for carrying out one's duties in a professional manner and withstanding undue pressure.

Establishing Trust with the Public

My second contention is that an enforceable code of ethics is a requisite for the place archivists are carving out for themselves in our society. Archivists have always played a role in shaping our understanding of ourselves and our history. Even with the best intentions and efforts to present records and information without bias or interpretation, the acts of arranging, describing and creating context has imposed choices on records worked on by archivists. The need to restrict or deny access also can change the picture presented and with the quantity of records being generated causing a greater need for selection, archivists literally determine to a greater or lesser extent what we can know. New technologies present additional barriers to presenting records without coloration by the archivist's experiences – any order applied to "tweets" might be a misrepresentation of events which may have occurred simultaneously.

The archives of a society tell the story representing the collective memory of that society, offering a chance for society to study itself and reflect on where it has been and where it is going. It is a guide which a society can use to correct its course if the contents of that guide are accurate

and complete. Archives have the potential to great good if used properly or tremendous harm if used improperly or neglected. (Dingwall, 2004)

Archivists lay claim to be guardian of the archives. What assurance can they provide of their integrity and good faith in protecting this vital resource? Particularly in today's world, where institutions bid against each other for collections and donors offer papers and files only upon conditions that they be "sanitized," often by archivists specified by the donor, before access is offered to the public, what comfort can archivists provide that they realize they are undertaking a sacred trust?

A code of ethics, as the public face of a profession, can provide that comfort. It offers a way for the public to understand how a professional weighs competing rights and claims of different parties and balances those interests in making decisions. One of the defining traits of a profession is that its members in practicing the profession work for the public good. A code of ethics, either explicitly or in the strictures embodied in its guidelines, reveals how the public interest is taken into account when conflicts arise.

Dingwall (2004) cites Terry Eastwood for the proposition that archives are "arsenals of democratic accountability and continuity." Dingwall makes the case that although archivists believe they are motivated by concern for the public good, the general public does not necessarily share that. The explanation for the uncertainty about archivists' motives is attributed to a lack of knowledge about archives and the role they can play in defending democratic rights. The turbulent times we live in require archivists to "buoy the public faith" in the trustworthiness of archivists and archival institutions; for archivists to successfully educate the public in this fashion depends on being able to make reference to codified ethics as a justification for that faith.

Conclusions

As already noted, there already exist codes of ethics for archivists and archival institutions. What is lacking is general acceptance of any one code as the standard, and any means of enforcement. Archivists, both to develop a framework for professional relationships amongst themselves and to create a bond of trust with the public, need to devise a code of ethics which will have support and acceptance across the profession. Indeed it is necessary in order to be able to claim the status of a profession. Agreeing on a code is, however, only the first step; implementing a way to enforce the code is equally critical. Unless there are penalties and costs to violation of a code, it is merely a fanciful statement of how we wish the world to be. Unfortunately, the public trust which is needed now, and will only become more essential as time moves forward, will not develop unless the code of ethics truly serves as a governing document for the profession.

A key point that still needs addressing is that the code of ethics must be enforceable. To be enforceable, some governing or regulatory body must have authority to impose sanctions. This would require some type of licensing or certification to practice in the field, as well as a governing body. The changes required to implement a shift of that scale are beyond the scope of this paper and my argument; I am, however, arguing that the demand by archivists for an enforceable code would lead to the necessary changes. One possibility for moving forward would be for the SAA, the leading professional organization for archivists in this country, to take the lead in moving in this direction; this would require a reversal in some respects of positions previously taken. Rather than dreading the risk of litigation, the SAA should restore and expand commentary on its code, positioning itself to be the governing body of the profession. One approach might be to adapt the model the legal profession uses, providing not only commentary,

but also offering advisory opinions upon request for specific circumstances and sponsoring ethics classes.

This paper is intended as a wakeup call, to have archivists start clamoring for an enforceable code of ethics as indispensable for the advancement, perhaps even the continued viability of archives as a profession. I recognize that effecting the changes needed, and implanting the conditions required for an enforceable code, will undoubtedly be a long and difficult process. But this will surely be easier and more to the liking of practitioners if archivists provide the impetus for change rather than waiting until rules and regulations are imposed on the field. I believe this is a chance for archivists to be proactive and take the first step to determining the future direction of the profession.

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