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PERFORMING ARTS
MANUSCRIPT COLLECTIONS:
BALANCING ACCESS AND PRIVACY

by Linda B. Fairtile

Archivists and manuscript curators are sometimes called upon to balance the competing interests of subject and researcher, weighing the former's privacy concerns against the latter's pursuit of knowledge. Administering manuscript collections in the performing arts can be especially challenging. Since success in this field typically depends upon networks of high-profile people, the personal papers of an individual entertainer are likely to contain information from and about other celebrities, frequently without their knowledge. Many performing artists jealously guard their private lives, and for good reason, since tabloid-style exposés, finan-

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cial ruin, and even physical harm are potential by-products of the interaction between celebrities and their public.¹ But it is not only celebrities whose privacy may be threatened by the availability of certain manuscript materials. Performing artists often depend upon the services of "ordinary" people who are legally required to supply personal data in order to obtain payment for their work. This information, too, can find its way into manuscript collections.

This essay examines some of the issues involved in administering performing arts manuscript collections. After briefly discussing the evolving notion of privacy in both its legal and moral senses, it will turn to the relationships and interlocking responsibilities of the four groups concerned with access to manuscript collections: donors, custodians, users, and "third-party" contributors. Finally, the results of a survey of performing arts repositories will reveal the variety of ways in which these responsibilities are addressed. It will be demonstrated that despite the attention paid to issues of access by professional organizations, agreements in theory, much less in practice, have yet to be established.

PRIVACY

Before discussing how manuscript curators provide access to personal papers, it is necessary to examine what it is that they may be called upon to protect, namely, individual privacy. In 1890, Samuel Warren and Louis Brandeis published the first sustained legal discussion of the right to privacy in the United States. Recognizing that neither the Constitution nor the Bill of Rights explicitly guarantees such a right, Warren and Brandeis nonetheless argued that the complexity of modern life forces the individual to seek "some retreat from the world . . . [because] modern enterprise and invention have, through invasions upon his privacy, sub-

jected him to mental pain and distress far greater than could be inflicted by mere bodily injury."²

In subsequent years, both judicial and legislative bodies took up the issue of individual privacy. The actions of the Supreme Court and local judges reveal that the Constitution is generally understood to protect individuals from government intrusion into their private affairs, while the common law regulates similar concerns between private persons.³ In 1966 Congress passed the Freedom of Information Act (FOIA), which granted access to federal government records, subject to exemptions protecting such data as "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."⁴ The vagueness of this declaration meant that case law would determine its particular applications.

The U.S. Privacy Act, passed six years after the FOIA, codifies the sorts of safeguards that many Americans had long assumed to be implicit in the interaction of a government and its citizens. Its four main principles prohibit federal agencies from disclosing personal information about individuals without their consent, grant individuals access to personal information concerning them, limit the types of personal information that an agency can collect, and mandate that federal agencies must publicize the existence of personal information banks.⁵

Like Warren and Brandeis before her, the ethicist Sissela Bok defines privacy in terms of insulating the individual, as "the condition of being protected from unwanted access by others—either physical access, personal information, or attention."⁶ She adds that "claims to privacy are claims to control access to what one takes—however grandiosely—to be one's personal domain."⁷ Bok's emphasis on access and her concurrent disregard of its mechanism suggest a more abstract definition of privacy that could be applied by custodians of

information. The lack of specificity about the excluded "personal domain," however, permits a range of interpretations, from a narrowness that could threaten a donor's well being to a breadth that prohibits even basic biographical research.

The legal scholar Edward J. Bloustein identifies the transformation of a private life into a public spectacle as the fundamental wrong that is committed through privacy violation.⁸ But what if the object of scrutiny is already a public figure, such as a rock star or a stand-up comedian, whose very livelihood depends upon making a spectacle of himself? William Prosser defines a public figure as someone who "by his accomplishments, fame, or mode of living, or by adopting a profession or calling which gives the public a legitimate interest in his doings, his affairs, and his character, has become a 'public personage'."⁹ According to this interpretation, anyone who captures the attention of the masses, for good or for ill, becomes a public figure. Courts have historically ruled that such persons forfeit a measure of privacy, since they themselves sought publicity, their personalities have thereby become public, and the press has a constitutionally guaranteed privilege to inform people about matters of public interest.¹⁰

The extent to which information about a celebrity's personal life can be considered a matter of public interest lies at the heart of the privacy debate. Prosser explains the issue in terms of censorship, focusing on what the public is entitled to read rather than on what the celebrity is permitted to protect, and he notes that courts have long been reluctant to infringe upon the former.¹¹ Thus the perceived informational value of a celebrity's love life frequently pushes this seemingly personal topic into the arena of public discourse. Similarly, biographers are given considerable leeway to reveal facts about a public figure's parentage, behavior, and associations. Some areas, however, seem to be accepted as off limits, since it is difficult under most cir-

cumstances to identify a legitimate public interest in a celebrity's bank account number or her medical records.

MAKING PRIVATE INFORMATION AVAILABLE

Warren and Brandeis located the issue of privacy within the general right of the individual to be left alone, and they extended this protection to cover "thoughts, sentiments, and emotions, expressed through the medium of writing or of the arts, so far as it consists in preventing publication."¹² This is an important consideration in the complex of issues faced by manuscript curators. By identifying the abuse of written records solely with their publication, Warren and Brandeis would seem to assign the ultimate defense of privacy not to the custodians of records, but to their users, since while the former act as gatekeepers for information, it is typically the latter that seek to publish it. It would appear that, according to Warren and Brandeis, allowing researchers simply to see personal information in a manuscript collection does not violate the privacy of its subject.

While the legal definition of a privacy violation should be of concern to everyone in the archival profession, manuscript repositories, whose acquisition programs depend upon maintaining a reputation for fairness, must also be attuned to the ethical nuances of the privacy debate. In this sense, it seems counterintuitive to regard publication as the only type of disclosure that could threaten an individual's reputation, unless the definition of publication can be expanded to include other forms of communication. While discussing the conditions necessary to prove a case of defamation in court, Edward Weldon suggests that even depositing something in an archive might constitute an act of publication.¹³ He seems to indicate that once a critical

mass of people is allowed access to information, the damage has been done, regardless of the circumstances of disclosure.

RELATIONSHIPS AND RESPONSIBILITIES

Weldon has identified several legal conflicts that may arise in the course of administering manuscript collections. Three significant relationships are at the heart of his concerns, those between a collection's donor and its custodian, between the custodian and users of the collection, and between the custodian and third parties represented in the collection. Although Weldon concentrates on legal issues, manuscript curators have an equal responsibility to consider the ethical dimension of these relationships, since it is imperative that an atmosphere of good faith prevails in any scholarly enterprise. While a particular access policy may conform to the letter of the law, it must also reflect a fair and considerate treatment of all parties involved.

The repository's need for maintaining good public relations is perhaps most apparent when it deals with its donors. According to Barbara J. Kaiser, manuscript collecting over the twentieth century has been characterized by a continuing relationship between donor and custodian.¹⁴ Clearly, it is in the repository's interest to sustain a positive relationship with its donors, in order both to preserve the possibility of obtaining additional materials from current sources, and to cultivate new donors.

Donors of contemporary collections often have emotional ties to their contents. This can present difficulties, since the donor's personal involvement with the collection may make him hypersensitive to privacy issues. As Kaiser has observed, the donor may fear that premature access to confidential or candid statements will endanger personal relationships.¹⁵ He may also

worry about how history will judge figures represented in the collection. Taken to the extreme, these concerns could cause a potential donor to destroy documents, or to withhold an entire collection rather than taking the time to identify sensitive information. Manuscript curators, therefore, must be able to assure donors that their privacy concerns will receive consideration. In some cases, curators may even assist donors in determining appropriate access restrictions.

The donor also has responsibilities towards the manuscript custodian, including being honest about his motives for offering his papers in the first place. A manuscript repository is not a storage alternative for overflowing closets. Curators accept personal papers with the intent of making them available for study, so far as their physical condition allows. A desire to protect specific personal data—addresses, telephone numbers, financial information—is understandable, and donors do have a legal right to limit access to their papers.¹⁶ Excessive restrictions, however, put the curator in a difficult position, particularly since guidelines issued by the Society of American Archivists (SAA) call for him to publicize collections under his care.¹⁷ In today's society, with its long-held presumption of academic and literary freedom, donors cannot realistically expect to control the reputations of themselves or others, and they should not pressure curators to attempt to do so. Finally, asking the curator to enforce overly complicated access restrictions can place an unfair burden on a repository's staff.¹⁸

Custodians and users of manuscript collections are also engaged in a reciprocal relationship. Although the degree to which their mutual responsibilities are pursued varies from institution to institution, certain generalities apply. In 1965, Jean Preston wrote that the typical curator may be concerned with the physical well-being of manuscripts under his care as well as with "the purpose for which they are to be consulted."¹⁹ The

paternalistic tone of this second condition may irritate both researchers and curators today, but it is true that there are still situations, independent of preservation concerns, where library professionals consider a user's intentions before providing access to certain materials. Requiring credentials or letters of reference is one way that some repositories separate "eligible" researchers from the merely inquisitive. Expecting the user to have done preliminary research on her topic is another, since this, too, can be seen as demonstrating seriousness of intent.

Professional standards issued by the Association of College and Research Libraries (ACRL) and by the SAA differ in their approach to the subject of access. While both organizations call for equality and oppose discrimination, only the ACRL explicitly addresses the quality of a user's research, by declaring that

special collections libraries may regulate access to the collections according to established and stated policies. In formulating such policies, the following considerations are relevant: In accordance with the principle of nondiscriminatory access, the library may not deny or limit access on the basis of the perceived scholarly merit or appropriateness of a researcher's work. . . .²⁰

The SAA, by contrast, simply stresses the repository's responsibility "to make available research materials in its possession to researchers on equal terms of access."²¹ Frank G. Burke views the implementation of both sets of guidelines in a pessimistic light, declaring, "the best that usually comes from such statements is that all persons of equal authorization should be treated equally."²²

The responsibility of users towards manuscript custodians is largely reflected in the former's behavior while engaged in research. Just as a curator should not pre-judge a researcher's scholarly intentions, so the researcher should not blame the curator for access restric-

tions that are beyond her control. Also, if the publication of manuscript materials has been forbidden for any reason—typically, out of concern for copyright or individual privacy—the researcher must abide by this ruling. The New York Public Library's successful litigation against Peter Kavanagh, who violated a temporary ban on publishing its letters of John Quinn, demonstrates that repositories expect researchers to take access restrictions seriously, and they are willing to go to court to enforce them.²³

The custodian's responsibility toward third parties represented in a manuscript collection is perhaps the least understood of the relationships under consideration. As Edward Weldon has noted, the personal papers of an individual subject are usually not the literary product solely of that subject.²⁴ Third-party contributors, so designated because they are neither the main subject nor the custodian of the collection, nonetheless have an interest in its accessibility, even if they are unaware of it. The most obvious source of concern vis-à-vis the interests of third parties is correspondence, since every letter has both an author and an intended recipient, and the subject of the collection can fill at most only one of these roles. When a manuscript collection contains letters in which its subject reveals sensitive information about herself, few would argue that this represents a violation of privacy, so long as the donor of the collection—typically the subject herself or her legal heir—has authorized access to the material. Letters in which the subject reveals personal information about other people are potentially harmful, but the information that they convey is hearsay. However, in those cases where the subject of a collection receives a letter containing sensitive personal information about its author, and especially when the author asks the recipient to hold the information in confidence, it could be argued that future custodians of that letter inherit some responsibility to protect the author's privacy.

Everyone in the archival profession does not share this opinion. Judith Schwartz, an archivist associated with the Lesbian Herstory Archives in New York City, has written that "while individual privacy and confidentiality may be of paramount concern while the individual lives, a full disclosure of deceased individuals' history can do little harm and yet add much to the lives of others."²⁵ Schwartz writes from the perspective of a historically persecuted minority for whom public disclosure is sometimes considered the price of eventual acceptance. There are certain relationships—physician-patient, priest-confessor, lawyer-client—whose confidentiality is protected by law, but it is not always clear whether ethics compels us to extend such protection to other relationships, or to give them posthumous consideration.

Depending upon its scope, a collection of personal papers can include other types of personal information by and about third parties who are often unaware that such data has been transferred to an active research center. If, as is often the case in the performing arts, the subject of a manuscript collection contracted musicians, actors, or dancers for a performance, his personal papers may contain Social Security numbers and other income tax information. Such data, when residing in a government archives, is withheld from public scrutiny in deference to the Privacy Act of 1974. If the subject ever taught at a college or professional school, he may have accumulated grades and other personal information about his students. This type of information, housed in an academic institution, is restricted in response to the Buckley Law. If the subject was involved in social causes, he may have received personal correspondence from victims of crime or injustice that is subject to the protection of confidentiality laws. It is a fact, however, that while archivists routinely screen their collections for such potentially damaging materials, many manuscript curators leave this task to their

donors, who are usually unaware of privacy statutes. In each case, therefore, certain classes of sensitive material may receive drastically different treatment merely by virtue of their location, whether in an archives or a manuscript repository. If the persons identified therein are still living, the potential for information abuse must be taken seriously.

While the donor of a collection is understood to possess the legal authority to give those papers to a repository, the rights of third parties represented in the collection often receive little consideration. This may be due, at least in part, to the difference between archival and manuscript traditions, since the latter seldom screen their collections for sensitive material.²⁶ The manuscript curator's reluctance to commit resources to this "extra" processing step may also stem from the sort of belief expressed by Henry Bartholomew Cox, namely, that "it is unconscionable that [an heir of historic manuscript letters] should expect to govern the use of private letters whose recipients have either given or sold the documents to third parties."²⁷ Cox expresses the indignation of a scholar denied access to needed materials, and yet there must be circumstances, such as those outlined above, where the interests of the letter writer should be taken into account.

PRACTICAL SOLUTIONS

An examination of recent literature reveals that the access policies of manuscript repositories receive far less attention than those of archives, and the particular concerns of performing arts collections are hardly discussed at all. Anyone wishing to explore how theories about privacy and access are realized in these specialized repositories must turn to the practitioners themselves. Therefore, the remainder of this essay is con-

cerned with the results of a performing arts access survey undertaken expressly for this purpose.

The survey was conducted in two steps. First, an introductory letter was sent to sixteen repositories believed to hold manuscript materials related to music, dance, or theater.²⁸ Eleven of the curators who were contacted agreed to complete the survey, and two were subsequently dropped because their institutions do not hold enough material relevant to the study.

Copies of the survey were sent to the remaining participants, all of whom were promised anonymity for themselves and their institutions, and seven usable surveys were returned. The small number of responses precludes statistical analysis of the resulting data, but the manuscript curators whose responses were considered—from a university general performing arts collection; private, public, and university music collections; public and university theater collections; and a private dance collection—give a fascinating picture of variations in theory and practice across the United States at the close of the twentieth century.

Overall, the survey shows that a range of access restrictions is applied to sensitive manuscript materials, broadly defined in the introductory letter as “materials that contain information with the potential to cause their subject humiliation, loss of reputation, physical injury, or material damage, if exposed to public scrutiny.” In fact, most of the repositories surveyed do not enact categorical restrictions based on content, but focus instead on the materials’ physical condition as a criterion of access. Only two of the seven repositories restrict access to entire categories for reasons of content. All contracts, as well as any items that include addresses, telephone numbers, or Social Security numbers, are off limits in the public theater collection, while the papers of all living donors are restricted in the private dance collection.

While over three-quarters of the repositories sur-

veyed do not restrict entire categories of materials owing to their content, all but one of them apply donor-initiated access restrictions to individual items in their collections. Three curators report that less than one percent of their manuscript collections is restricted, while one restricts two percent. The public theater collection has a higher percentage of restricted materials—about five percent of its holdings. The university general performing arts collection restricts ten percent of its manuscript materials, but it is unclear what portion of this is dependent upon preservation concerns. The private dance collection does not accept materials with donor-initiated restrictions, but since it categorically restricts anything acquired from living persons—about half of its current holdings—it would seem that further restrictions are unnecessary.

Access restrictions practiced by the seven repositories seem, for the most part, to conform to SAA and ACRL standards. Perhaps mindful of equal access guidelines, the curator of the private music collection was careful to note that his institution's policy does not contain the words "qualified researcher," although both he and the public theater curator do consider the age of a potential user. The curators of the university music and performing arts collections both confine access to qualified researchers, but from the information supplied it is impossible to determine whether they are bound by any university-wide admission policies. Similarly, the private dance collection screens researchers' qualifications. Two university curators (music and theater) grant selective access to users with permission from the donor or donor's representative.

While all but one of the survey respondents affirmed that their institutions would not automatically refuse a collection whose donor insisted upon restricted access, the curator of the public music repository emphasized that he would agree to restrict only deposit collections, and not fully accessioned materials. Four of the cura-

tors agreed that certain considerations influence their decision to accept a collection from a donor who insists on limiting access, such as the extent and duration of the restriction, and the importance of the collection to the repository and its users. The private dance collection, as described above, has an access policy that virtually eliminates the need for donor-initiated restrictions.

In each of the repositories, high-level staff members such as senior archivists, curators, and department heads make decisions about access restrictions. The private music collection's curator emphasized that it is the Director of the Archives, rather than his institution's president, who rules in these cases. This separation of archival and administrative responsibilities is consistent with his earlier acknowledgment of open access to materials that may reflect poorly upon the subjects, creators, or business associates of his institution. The private dance collection's access policies are determined by "management," which, in the absence of further information, could be interpreted as the opposite of this situation. In three cases—the university music, public theater, and public music collections—decisions about access restrictions are not made unilaterally, and in all but the university music and private dance collections, the restricted status of documents is periodically reviewed.²⁹ All seven repositories rely on a mix of professional and other staff to process their manuscript collections, and those staff members who handle restricted materials—typically not students—are aware of the appropriate access policies.

The storage and servicing of restricted materials also vary among the seven repositories surveyed. While the private dance collection does not physically separate restricted items from other manuscripts, the university theater collection sometimes employs an elaborate system of markings and wrappings; the other five repositories employ a range of practices between these two points. In most cases, restricted items are identified as

such in finding aids, although the public music collection's curator emphasized that his repository confers restricted status only on deposit collections, for which no finding aid is prepared. The reference staffs of each institution have an awareness of access policy, and some are required to defer requests for restricted materials to senior personnel.

CONCLUSION

The debate over individual privacy has a long history, and its boundaries are still open to interpretation. While the United States government has enacted statutes designed to protect it, judicial precedent has further refined its scope, and professional organizations have issued guidelines on its handling, there is as yet no general agreement on exactly what constitutes private information. Researchers, whose *raison-d'être* is the acquisition of information, naturally desire maximum access to manuscript materials. Custodians of personal papers, who by training and inclination also tend to favor open access to their repositories' holdings, must nonetheless consider their potential legal and moral responsibilities to all persons represented in a collection.

The substantial gap between archivists' and manuscript curators' handling of legally protected personal information is troubling and potentially risky. It is not enough for manuscript curators to assume that untrained donors will "take care of" all of the sensitive personal information contained in a manuscript collection, and in fact, one-quarter of those surveyed do enact their own content-based restrictions. Collections of twentieth-century materials, and especially those related to the performing arts, often contain the sort of data that archivists, with their greater sensitivity to legal concerns, would automatically restrict from public scrutiny. It is not inconceivable that a person with mali-

cious intent could acquire such information from an un-screened manuscript collection and use it against a living person. In today's society, manuscript repositories cannot afford to ignore such a possibility.

APPENDIX: SURVEY QUESTIONS AND RESPONSES

The following questions were answered by representatives of music collections (private, public, and university), theater collections (public and university), a private dance collection, and a university collection of general performing arts materials. Their responses are reproduced literally, although identifying data has been suppressed. Explanatory notes appear in square brackets.

1. In which ways does your repository restrict access to archival and manuscript materials?

a. Access limited to qualified researchers (repository determines who is qualified)

Private Music: *"We do not have the words 'qualified researchers' in our access policy. However, in practice, I do encourage high school and undergraduate researchers to use sources in public and institutional libraries before coming here."*

University Music, Private Dance, University Performing Arts: *Yes*

Public Theater: *"Qualified to us means that they were given access to [the research facility; i.e., users are typically at least 18 years old]."*

Public Music, University Theater: *No*

b. Access denied to all persons for a specific period of time

Private Music, University Music, University Theater, University Performing Arts: *Yes*

Public Music, Public Theater: *No*

- c. Access only with written permission from donor or representative

University Music, University Theater, University Performing Arts: *Yes*

Public Music: *"For materials to which the library does not yet have legal title (i.e., deposit collections), access is by permission of the donor (or donor's representative), either in writing or verbally, depending on the circumstances of the deposit."*

Private Music, Public Theater: *No*

- d. Other (please specify):

Public Theater: *"Unprocessed collections are restricted. They can only be accessed when they are processed or, very rarely, with the permission of the Curator. Some collections have closed materials due to request of donor or [the presence of] sensitive materials, i.e., social security numbers, etc."*

2. Approximately what percentage of your total archival/manuscript holdings qualifies as restricted?

Private Music, University Music, Public Music: *Less than 1%*

University Theater: *2%*

Public Theater: *5%*

University Performing Arts: *10%*

Private Dance: *50% "because person is living"*

3. As a matter of policy, would your repository accept a collection if its donor insisted on restricting access to all or part of its contents?

Private Music: *"Yes, depending on the length of the restriction. We would resist accepting a collection that had to be restricted in its entirety."*

University Music: *"Potentially yes, if only a very small portion was restricted."*

Public Music: *"Only as a deposit, with the understanding of acquisition and full access at a specified future date."*

University Theater: "Yes, but it depends on the kind and duration of restrictions."

Public Theater: "That is up to the Curator, and it would depend on how important the collection is."

University Performing Arts: Yes

Private Dance: No

- a. If yes, would the potential donor's insistence on restricted access diminish your repository's interest in acquiring the collection?

Private Music: "Probably not, but it would depend on how central the collection was to our collection policy."

University Music: "Depends on the percentage restricted."

Public Music: Yes

University Theater: "Would depend upon how outstanding collection is and the nature of restrictions."

University Performing Arts: "Not necessarily—depends on value of collection."

Public Theater: [no response]

4. Does your repository restrict access to certain categories of materials? Which ones?

Private Music, Public Music, University Performing Arts: Restrict access to materials whose physical well-being is an issue.

Public Theater: Restricts access to "contracts and any materials that contain social security numbers, phone numbers, and addresses"

University Music, University Theater: No

Private Dance: Restricts access to "field work of living donors."

5. Does your repository restrict access to individual documents of a sensitive nature?

Private Music: "This is evaluated on a case-by-case basis depending on the nature of the sensitivity. We don't think we have anything that holds important

legal ramifications, for instance. We don't restrict anything because we think it reflects poorly on the subjects or the creators of the archives. We don't restrict access because something may reflect poorly on people with whom we do business. We usually only restrict access if the issue related to a living person."

University Music: *"On very rare occasions."*

Public Music: *"Only for deposit collections which the library does not yet own; access is restricted by stipulation of depositor."*

University Theater: *"Only those identified by donor to be restricted."*

Public Theater: *"Depends on if the donor or parties involved are alive"*

Private Dance, University Performing Arts: *Yes*

- a. If yes, what level of staff determines whether a document fits this description?

Private Music: *"The Director of the Archives (not the President of the institution)"*

University Music: *"The Archivist, in consultation with the Head Music Librarian"*

Public Music: *"Curatorial staff"*

University Theater: *"Donor determines"*

Public Theater: *"Senior Archivist and Curator"*

Private Dance: *"Management"*

University Performing Arts: *"Curator"*

- b. Is there a secondary or tertiary review of this determination?

Private Music: *"Only when requested"*

University Music, University Theater, Public Theater, Private Dance, University Performing Arts: *No*

Public Music: *"Secondary review by Division Chief"*

- c. Is the restricted status of documents periodically reviewed?

Private Music, Public Music, University Theater, Public Theater, University Performing Arts: *Yes*

Private Dance: *"No system is in place"*

University Music: No

6. If your repository restricts access, are the restricted materials physically separated from the rest of the collection?

Private Music: "No restricted materials are kept in our semi-self-serve collections. Otherwise, they are integrated into the collections, foldered separately, and labeled "Restricted until —."

University Music, Public Music: "Sometimes."

University Theater: "Depends on collection and amount of restricted material. In cases of large amounts of restricted materials, they may be boxed together and identified as restricted. In cases where restricted materials are interfiled with non-restricted, the folders with restricted material are so marked and wrapped, providing a visual warning and physical obstruction to use. Any such materials are removed from a box before it is made available to a researcher."

Public Theater: "Usually."

Private Dance, University Performing Arts: No

- a. Are these materials identified as restricted in the finding aid?

Private Music, University Theater: Yes

University Performing Arts: "Yes—Also identified in donor's agreement transferring collection to Manuscripts Division."

Public Theater: "Usually."

University Music: "Sometimes."

Public Music: "No finding aid [exists] for deposit collections."

Private Dance: "Currently not applicable"

7. Who processes your archival and manuscript collections?

Private Music, University Music, Public Music,

University Theater, Public Theater, University Performing Arts, Private Dance: Professional staff.

University Music, Public Music, University Theater, Public Theater, Private Dance, University Performing Arts: Student or part-time staff.

Private Music, University Performing Arts: Paraprofessional staff.

Public Theater, University Performing Arts: Trained volunteers.

8. Is every member of your processing staff aware of your access policies?

Private Music, University Music, Public Theater, Private Dance: Yes

Public Music: "Yes, though reminders are necessary as per 5c. above [periodic review of restricted status]."

University Theater: "Any member of the staff (including students) involved in processing materials that have been restricted by the donor is informed. Most of our student processing staff never deal with restricted materials."

University Performing Arts: "No—sensitive materials are not processed by students and volunteers."

9. Is every member of your reference staff aware of your policy on restricting or not restricting access?

Private Music, University Music, Private Dance, University Performing Arts, Public Theater: Yes

Public Music: "Yes, though reminders are necessary as per 5c. above [periodic review of restricted status]."

University Theater: "They are all aware that there are some restricted materials in the holdings, and any request for those materials is referred to the Curator or the Assistant to the Curator."

NOTES

- ¹ The deaths of singer/songwriter John Lennon and actress Rebecca Schaefer, both of whom were murdered at their homes by obsessed fans, exemplify the destructive extremes of this relationship.
- ² Samuel D. Warren and Louis Brandeis, "The Right to Privacy [the implicit made explicit]," in *Philosophical Dimensions of Privacy: An Anthology*, edited by Ferdinand David Schoeman (New York: Cambridge University Press, 1984), 77.
- ³ Heather MacNeil, *Without Consent: The Ethics of Disclosing Personal Information in Public Archives* (Metuchen, NJ: Scarecrow Press and SAA, 1992), 22.
- ⁴ 5 U.S.C., 552 (b) (6), cited by MacNeil, 63.
- ⁵ MacNeil, 46–47.
- ⁶ Sissela Bok, *Secrets: On the Ethics of Concealment and Revelation* (New York: Pantheon, 1982), 10.
- ⁷ Bok, 11.
- ⁸ Edward J. Bloustein, "Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser," in *Philosophical Dimensions of Privacy*, 169.
- ⁹ *Cason v. Baskin*, 159 Fla. 31, 30 So. 2d 635, 638 (1947), cited by William Prosser, "Privacy," in *Philosophical Dimensions of Privacy*, 118–19.
- ¹⁰ Prosser, 119.
- ¹¹ Prosser, 120.
- ¹² Warren and Brandeis, 82. Since these authors wrote at a time when sound recording was in its infancy and the broadcast media did not yet exist, publication was the only available means of mass disclosure.
- ¹³ Edward Weldon, "Some Legal Considerations Affecting Access," in *Access to the Papers of Recent Public Figures: The New Harmony Conference*, edited by Alonzo L. Hamby and Edward Weldon (Bloomington: Organization of American Historians, 1977), 45.
- ¹⁴ Barbara J. Kaiser, "Problems with Donors of Contemporary Collections." *American Archivist* 32/2 (April 1969), 103.
- ¹⁵ Kaiser, 105.
- ¹⁶ Philip P. Mason, "The Archivist's Responsibility to Re-

- searchers and Donors: A Delicate Balance." In *Access to the Papers of Recent Public Figures*, 26.
- 17 Society of American Archivists: Committee on Reference, Access, and Photoduplication, "Standards for Access to Research Materials in Archival and Manuscript Repositories." *American Archivist* 37/1 (January 1974), 153.
 - 18 Kaiser, 105.
 - 19 Jean Preston, "Problems in the Use of Manuscripts." *American Archivist* 28/3 (July 1965), 368.
 - 20 Association of College & Research Libraries, Standards for Ethical Conduct for Rare Book, Manuscript, and Special Collections Librarians (Chicago: ACRL, 1994), 4.
 - 21 SAA, 153.
 - 22 Frank G. Burke, *Research and the Manuscript Tradition* (Lanham, MD: Scarecrow Press and SAA, 1997), 263.
 - 23 Preston, 371-372.
 - 24 Weldon, 44.
 - 25 Judith Schwarz, "The Archivist's Balancing Act: Helping Researchers While Protecting Individual Privacy." *Journal of American History* 79 (1992), 189.
 - 26 Because the archival tradition has always touched upon matters of security or government-mandated privacy, its practitioners are accustomed to conducting detailed document reviews. Access policies for manuscript collections have grown largely from donors' restrictions, and thus curators typically expect donors to look out for their own privacy interests rather than committing staff resources to screening personal papers.
 - 27 Henry Bartholomew Cox, "Private Letters and the Public Domain." *American Archivist* 28/3 (July 1965), 383.
 - 28 These repositories were identified through word of mouth, from keyword searches of the World Wide Web, and from *SIBMAS International Directory of Performing Arts Collections* (Haslemere [England], 1996).
 - 29 Although the dance curator reported having no system to review the restricted status of documents, it seems unlikely that this repository, which prohibits access to all materials acquired from living persons, would not reconsider a collection's restrictions at some point after its donor's death.