Privacy concerns & ethical decision-making in digital collections

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Introduction

“Recognize that privacy is more than a binary value.” (Zook, et. al, 2017)

- Be mindful of personal perspective, biases & outlook
- Institutional culture/practice around privacy may vary (or doesn’t exist!)
Privacy

“Privacy, like an elephant, is more readily recognized than described.” John Young, 1978

- Privacy is not a given, universal right
- Society & culture often loosely define privacy; while individuals often have personal definitions
- Many consider privacy as a luxury afforded only to the *living*, especially the courts
- Privacy rights can be waived by an individual, but not transferred
Some U.S. laws that touch on privacy

- Family Educational Rights and Privacy Act (FERPA), 1974
- Health Insurance Portability and Accountability Act (HIPPA), 1996
- Privacy Act of 1974
- Video Privacy Protection Act (VCPA), 1988
- Electronic Communications Privacy Act, 1986
- Telephone Consumer Protection Act (TCPA), 1991
- Driver’s Privacy Protection Act (DPPA), 1994
- Children’s Online Privacy Protection Act (COPPA), 1998
- Gramm-Leach-Bliley Act (GLB), 1999
Personally Identifiable Information (PII)

- Name
  - Full name, maiden name, alias
- Personal ID number
  - SSN, passport number, driver’s license number, taxpayer ID number, credit card number
- Address
  - Postal address, email
- Asset information
  - IP/MAC address, other host-specific persistent static identifier
PII, cont.

- Telephone numbers
- Information around personal property
  - such as VIN number, title, etc.
- Information that reveals an individual’s date of birth, place of birth, race, religion, geographical indications, employment information, medical, education, financial
Privacy violations

- Privacy violation are often easier to identify over the larger concept of privacy
  - An exposure of personal information; such as pushing information from a more protected arena into a less protected arena
  - Privacy violations may, in some scenarios, be unintentional

Prosser (1955)
- Impede or intrude on an individual’s solitude or seclusion
- Disclose private information about an individual
Digital collections

- Published (Books, articles, film, audio, etc.)
- Unpublished (Manuscripts, personal papers, diaries, photographs, etc.)
- Special and Archival collections
  - Provenance info
  - Balancing access and privacy
- Other types of collections & many other avenues…
Role of the practitioner

- Digital librarian as final gatekeeper & ultimately the information discloser
  - Dissemination as disclosure
- We create accessible inlets for discovery and push content
  - Adding descriptive metadata & full text search functionality
  - Providing increased search potential and access via digital libraries
On Our Backs

- Lesbian erotica serial publication (1984-2006)
- Reveal Digital: Independent Voices project

Image from:
KSU example

- Directory information & grade discussion
- Consulted with General Counsel
- Decision: Redact directory info

Image from the Murray Fishel papers, [https://www.library.kent.edu/murray-i-fishel-papers-1970](https://www.library.kent.edu/murray-i-fishel-papers-1970)
Ethical models for decision making

- Some cases may not be as clear in regard to potential privacy violation(s)
- Models can assist with identifying issues & creating discussion points
- Ethical issues are most often in conflict in uncertain conditions that involve many individuals, interests and values, and an individual by default will use their personal ethical standards *when no organizational ones are present* (Trevino, 1986)
Curtin’s 6-step model

1. Perception of the problem
2. Identification of the ethical components
3. Clarification of person(s) involved
4. Exploration of options
5. Application of ethical theory
6. Resolution/evaluation
1. Identify all outcomes (foreseeable, actual/known, possible)
2. Identify the outcomes associated with each option
3. Identify the probability that the option will produce the desired result
4. Identify the importance the decision-maker ascribes to each possible option
Privacy review strategies & assessment

- Work towards **fair information practices**
- Develop a culture of privacy (George, 2004)
  - Openly display institutional practice(s) and/or related policy
  - Provide users with a choice and a clear point of opt-out
  - Transparency of practice
  - Set consequences for privacy violations
- Privacy assessment and review can take place concurrent with other reviews (preservation, appraisal, etc.), or on its own (Gilliand & Wiener, 2014)
Outline a privacy review process

1. Conduct a privacy review as part of regular digital project parameters
2. Identify situations where permission should be sought before online dissemination
3. Create internal guidelines/documentation for privacy review
4. Use Curtin or DeWolf’s models to enable discussion and address notions of harm
Create internal privacy review

- Identify collections that may require item level review during project proposal
- Privacy review “cheat sheet” with examples and formats
  - SSN and other specific IDs
  - Grade and medical information
Framing questions

Posed towards the original *item/collection* (digital or analog)

1. What was the original *context* of the information/collection?
2. What was the original *purpose* of the information/collection?
3. Who was the original *audience* of the information/collection?
Questions geared towards original content creator (if known)

1. Who retains control of the information (or perhaps more importantly, who should)?

2. Does consent need to be attained before disseminating information broadly?

3. What level of awareness has been made to any constituents as to the planned publication and distribution of the information?
Wrap up

- Can be difficult to make cookie cutter decisions around privacy
- Make friends & talk to General Counsel (They are great resources!)
- Create internal documentation for more consistent review points
- Work towards more ethical & fair information practices through more mindful frameworks for decision making
References

References

- Robertson, T. (2016) “Not All Information Wants to be Free”, LITA Closing Keynote
Thank you!!

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