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Political Pressure and the Archival Record Revisited

"The Role of the Archives in Protecting the Record from Political Pressure" Chris Hurley¹

ICA 2004 - Archives, Memory & Knowledge, Vienna, 25 August 2004
(reprise of paper delivered in Liverpool at LUCAS² - July, 2003)

Judgement is power. Power without responsibility is a classic definition of tyranny. Professional judgement that is not accountable is a tyranny by professionals. Yesterday, some of you will have heard Trudy Huskamp Peterson³ say that matters of professional judgement cannot be standardised. This is true only in the sense that standards, benchmarks and criteria cannot control absolutely the exercise of a discretion - else judgement would be eliminated. But judgement of any kind can be circumscribed, contained, and limited by the application of standards. In that sense, the professional judgement of recordkeepers not only can be standardised, it must be. Otherwise, we inflict on others the tyranny of our own professional power unchecked by any restraint.

We sometimes hear that recordkeeping is a bulwark of accountability. I would like to raise a different question. In what way are we accountable for recordkeeping - whether in the face of political pressure or more generally?

This involves lacerating old wounds. For it is only through an examination of our own failings and shortcomings that we can learn how to be accountable - how to behave better in the future. We have no dispensation from the obligation to be accountable but we share the common human frailty of wanting to think well of ourselves. We do not like facing up to our own shortcomings. We deny, we avoid, we hide from them. If we are wise, however, we know that exposing them to honest scrutiny and learning from them will make us better.

Accountability requires certain things :

1. It must be clear what your **role** is (who is accountable and to whom?)
2. It must be clear what your **function** is (what are you accountable for?)
3. Your performance must be **measured** (against standards, criteria, or bench-marks set in advance)
4. Your performance must be **monitored** (deviance must be punished or corrected)

Recordkeeping, in my submission, meets none of these criteria, in respect of our role as agents of accountability. There is not even agreement amongst ourselves, let alone in the society in which we function, that we have such a role.

To demonstrate this, and then to learn and grow based on the resulting insight, involves lacerating old wounds. Some such wounds are not even very old.

Earlier this year, the Australian Society of Archivists (ASA) made a submission to an Australian Parliamentary Committee investigating (yet again) the now notorious Heiner Affair in Queensland. I regard this submission as another accountability failure by the profession. On the aus-archivists listserv, I have lacerated it as an outrageous exercise in professional evasion and whitewash - an attempt to misrepresent our collective failures and

¹ Political Pressure and the Archival Record: Liverpool Conference Revisited (Wien, ICA 2004 - Archives, Memory & Knowledge, Wednesday, August 25, 11:45 to 13:00)

² Liverpool University Centre for Archives Studies.

³ Trudy Huskamp Peterson, "ISO, ICA, and Archives Standards" (Wien, ICA 2004 - Archives, Memory & Knowledge, Tuesday, August 24, 11:45 to 13:00)

shortcomings and substitute a self-serving and dishonest account of our performance purporting to demonstrate our reliability as agents of accountability.

The paper I gave in Liverpool lasted a full forty minutes. This morning I have only half of that time available. I tried to edit it down to twenty minutes of delivery but I have decided against reading that shorter version out to you⁴. The full version is available on Rick Barry's website⁵ and is even now being printed, I believe, as part of the Conference Proceedings that are being published by the Society of American Archivists.

Instead of simply reading out that cut-down version then, I will traverse the topic in summary form and add a few words on a matter that has arisen since the LUCAS Conference. I have two overheads - much too busy to be put into PowerPoint, the only medium of projection available - so I have prepared a handout that is being circulated.

My LUCAS paper comprises two parables and two lessons. Both of my parables are drawn from otherwise unrelated events in 1990 - both involved political pressure and both involved (or came to involve) me personally.

UNCODIFIED BEHAVIOUR Conflicting or Disputed Expectations	WHISTLEBLOWING <i>Interfering; Renegade; Troublesome; Loose Cannon; Busybody; Courageous; Heroic; Unpredictable</i>	INDIVIDUAL BEHAVIOUR <i>Personal; Idiosyncratic; Odd Man Out; Live & Let Live; Doesn't Bother Me; Principled; One-Eyed</i>	UNCERTAIN OR DISPUTED ROLE Not Assigned, Enforced, or Bench-Marked
CODIFIED BEHAVIOUR Agreed or Shared Expectations	LAW ABIDING BEHAVIOUR <i>Enforcement; Compliance; Punishment; Good Citizen; Prohibition; Policing; Predictability; "Certainty"</i>	ACCOUNTABLE BEHAVIOUR <i>Conformity; Reliability; Credibility; Accountability; Trustworthy; Auditing; Monitoring</i>	ASSIGNED OR AGREED ROLE Understood, Enforced, and Bench-Marked
	COMMON RESPONSIBILITIES Universal Application; Wide Impact	INDIVIDUAL (OR GROUP) RESPONSIBILITIES Particular Application; Specific Focus	

Accountable & Related Behaviours

In the State of Victoria, in that year, I was dismissed as State Archivist for attempting to deal, against the wishes of my government, with a train of events beginning with a case of alleged unlawful destruction of public records by a senior official working on a matter involving the State Premier during an election campaign.

Meanwhile, to the North, my Queensland colleague was asked to give her approval (as required by statute) to the destruction by State Cabinet of the records of the aborted Heiner

⁴ The abbreviated version prepared for delivery in Vienna should be available at - <http://www.wien2004.ica.org/fo/speakers.php?ctNv1=48&ctNv2=&IdSpk=391&AlphSpk=&p=&SpkV=2> on the Congress website at but I have never been able to open it.

⁵ <http://www.mybestdocs.com/>

Inquiry into malpractice at a State-run institution for juveniles. The request, the appraisal, and the approval of the request all took place within 24 hours. The records were then being sought in projected legal proceedings by the manager of the facility and their destruction was arguably an offence under the *Queensland Criminal Code*.

Some years later, a Royal Commission uncovered systemic inmate abuse - including sexual abuse - in facilities such as the one Heiner was investigating. It has been alleged that

- the newly elected Labor Government was anxious to dispose of the records because they knew that evidence of such abuse had been given to Heiner,
- the allegations that had first been raised by the then Labor Opposition and had prompted the former Government to establish the Heiner investigation had by now served their political purpose, and
- Cabinet was now acting to prevent the exposure of that instance of abuse because it might have exposed the systemic abuse of which it was part - abuse that had not yet been uncovered to the public gaze and which successive governments, the unions, and the bureaucracy were all systematically covering up.

My involvement comes from having taken a position that, whatever the truth of such insinuations, the Heiner appraisal was unsatisfactory from a professional point of view. This view, I think it is fair to say, did not find favour with the Australian archival establishment. The public exchanges over many years were protracted and poisonous.

Both these cases have given rise to mixed opinions about the two archivists involved - me and Lee McGregor. In my own case, I have been portrayed by some as a hero, standing up (and suffering) for professional standards. Others (usually covertly and behind my back) portray my actions as naïve and counter-productive. Lee McGregor's actions have been defended by her fellow government archivists. The professional association (the Australian Society of Archivists) dithered for a long time, made one false start, then eventually (and to its credit) condemned her appraisal as professionally unworthy. But, in a qualification that they continue to maintain to this day and which can only come from a confusion of mind or purpose, they simultaneously attempt to shift the blame onto the Queensland Government and bureaucracy. This is repeated in the ASA's latest parliamentary submission (earlier in 2004) : the archivist is guilty of professional malpractice, but she is not accountable for it.

This is an absurd position.

The Queensland Government is, undoubtedly, blameworthy, but that is not ultimately our concern as a profession. In a perverse way, however, I agree with the ASA's continuing desire to exonerate the Archivist - not perhaps in a way that they would welcome, but it is agreement all the same. I would now say that neither Lee McGregor nor I acted accountably because we had no opportunity to do so. We were literally unable to act in a professionally accountable manner. Our profession let us both down long before either of us was called upon to act in such a manner.

The profession had not given us the standards and benchmarks necessary to guide our respective judgements. It still has not done so - with one exception. The ASA has, in the teeth of opposition from the government archivists of Australia, condemned ad hoc appraisal (the evil that lies at the heart of the malpractice in Heiner). This occurred subsequently, following heated dispute over what went wrong in Heiner. In 1990, however, each of us was left to decide alone, on the basis of personal judgement rather than professional expectations of us, what course of action to pursue.

We were left, if you look at the top right hand quadrant of my Matrix of *Accountable and Related Behaviours*, in the area of individual behaviour so far as our professional judgement was concerned. Standards and benchmarks setting out the behavioural expectations of our group, our profession, within society (the lower right hand quadrant of the Matrix) were not available - they still aren't.

Some colleagues express puzzlement about what I mean by standards or benchmarks. Quite simply, I mean rules about how we conduct our work that would enable an informed outsider to evaluate our actions in a particular case and to reach a conclusion about whether or not we should have acted as we did. As an example, I have suggested that the Heiner Affair teaches us that appraisal should not be 'ad hoc'. That means there should be rules or practice statements to ensure that similar situations will produce similar outcomes, so that the exercise of professional judgement in appraisal cases is not idiosyncratic or unfettered. If each appraisal should conform to or establish a precedent, or else be readily exposed as a violation of professional norms, then our actions in particular cases can be judged and we can be condemned if we fail to meet this test. This is merely an example. One can envisage a whole book of rules designed to limit the operation of professional judgement and to standardise outcomes.

A slightly different version of this Matrix, together with a fuller explanation of its meaning, is available on the Monash University's website⁶ in the form of a paper I gave earlier this year at a Lunch-Time Seminar for the NSW Branch of the Records Management Association of Australasia on records management and ethics.

So, arguing from that position, I began developing and included in my LUCAS paper (also my chapter on accountability in a forthcoming book edited by Sue McKemmish, Michael Pigott, Frank Upward, and Barbara Reed) a table of possible⁷ roles and functions that the recordkeeper might undertake. This table can be found on the reverse of the handout.

Since LUCAS, Eric Ketelaar tells me he has had some success using it as a teaching tool. Its purpose is simply to focus debate on how we are accountable and for what.

Debate about how to measure and monitor our performance comes later.

At another session of the Congress, I heard Yvonne Bos-Rops recount the story of the development of the ICA Code of Ethics. It was initiated by the ICA's Section of Records Management and Archival Professional Associations (ICS/SPA). Briefly, a draft ethical code laying out specifics was drafted by the SPA. It was rejected by the ICA Executive Committee (EC) - representing, effectively, the archival institutions. A compromise, the document you now see on the ICA web site, was reached in order to "save" it by meeting the EC's demand for a new draft comprising "short and universal principles". Its promulgation in this watered down form following endorsement by the ICA General Assembly in 1996 is now regarded as a victory. That, at least, is the story I heard Yvonne Bos-Rops tell⁸.

I think this story is instructive for very different reasons. To me, it is a tale of the subversion of true professional accountability by interests within the profession opposed to it. It is, if you like, a conspiracy story (or a theory only, depending on your point of view).

⁶ Chris Hurley, "Ethical Dilemmas in Records Management", 6 April 2004 at <http://www.sims.monash.edu.au/research/rcrg/publications/0406RMethicsCH.pdf>

⁷ In some cases, mutually exclusive and contradictory.

⁸ Yvonne Bos-Rops "The ICA Code of Ethics : A Challenge for Professional Organisations" in Margaret Turner, Karen Benedict, Yvonne Bos-Rops, Dianne Carlisle "Implementing the ICA Code of Ethics : Experiences and Challenges" which is available on the ICA website at - http://www.wien2004.ica.org/imagesUpload/pres_47_BOS_ROPS_SPA01.pdf

My question is this : Why was the endorsement of the EC regarded as necessary? Why could SPA not have promulgated its own first draft of the Code **on its own authority**? It would not then have been an ICA-endorsed document, it is true, but surely nothing prevented the SPA from urging its constituent professional associations to adopt it at the national level? If enough national professional bodies endorsed it, the resulting embarrassment of the EC and thence of the ICA itself would have been justification enough for this course of action. It would also have put pressure on the EC, lacking a code of its own, to cave in or develop an alternative code that might then be compared alongside the other. I doubt the EC would have obtained much comfort from the comparison. Standardised and worthwhile national codes would be much better than the international document that we now have. There is no merit in being international if it means promulgating generalised platitudes that are not worth having in the first place.

There was nothing in the paper I heard to suggest that in the post-1996 "implementation" phase the actions foreshadowed in the face-saving formula of the time - "later rules, practices, and examples could be added" - has led to anything. Rather, Bos-Rops tells a tale of how the watered-down international code has since been adopted and implemented by each national association in its own different way as each country saw fit. If that was to be the outcome anyway, what was the point of compromising the original draft code to meet the EC desire to avoid specifics? This is not the story of the implementation of a worthwhile international code of ethics. Rather, it is the tale of a vanilla product being given flavour and customisation at the national level - with the result that it is impossible to say what the benchmarks are, under this code, internationally. This is like the United States saying that it isn't torture under international law if George W Bush signs a *determination* saying it isn't.

We now have an international code of professional behaviour which it is impossible to violate because it is so bland and which can be adapted by each national entity to say anything it wants. Far better to have had a robust international product, endorsed by the professional associations section, from which national departures could have been measured.

It would have been more difficult for national bodies to vary to their own liking a hard-coded and specific document issued by SPA but without EC endorsement than it has, presumably, been for them to customise a document which consists only of "short and universal principles". If the net result was simply to provide a foundation for each nation to go its own way in any case by giving its preferred colour to a bland base - without specific meaning and with no attempt being made to achieve international standardisation - what harm would there have been in basing the national implementations on the original SPA draft and spitting in the EC's eye?

I thought this story, which I interpreted as the tale of well-meaning but naïve people genuinely trying to establish some ethical standards within the recordkeeping community and being way-laid by the unscrupulous manipulators amongst us who want no such thing, a fitting counter-point to and verification of my own thesis. This sounds harsh. It is meant to be. I will countenance no defence of the EC that it was being "practical" and simply recognising the impossibility of getting international endorsement from the national bodies to a genuine statement of international benchmarks. That defence amounts to no more than an admission of ICA's own weakness and venality. The logical end of that line of defence is, ultimately, a justification of death camps. You can't make a defence out of that. It certainly doesn't excuse the "capture" of the SPA effort by an EC bent of weakening its effectiveness.

This account of the ICA Code of Ethics is not just an exercise in aimless vitriol.

At the LUCAS Conference, there was discussion of things that could be done to crystallise and publicise (if not actually act on) cases of political pressure affecting the archival record. The conference had certainly highlighted many such instances involving many different

aspects of the common problem. I spoke out against any action involving the ICA. The ICA, I argued, was itself unsound because it overly represented the institutions. These institutions had a vested interest in opposing genuine standards because often (as many of the papers at the LUCAS Conference illustrated) the archival institutions were themselves at fault in these cases. This made the ICA (a creature of the institutions) unsuitable as a vehicle for doing anything about it.

In response, it was argued that the ICA was an edifice of many rooms and that the SPA may provide a suitable professional avenue beyond the power of the institutions to influence the outcome. Until I heard the story of the ICA Code of Ethics here in Vienna, I half believed it.

Table: Roles and responsibilities in recordkeeping	
Role	Key Ideas
Ordainer	<i>Quasi-Legislative</i> : Issue edicts or binding instructions. Compliance. Non-compliance is punishable. Power to allow or forbid (e.g. appraisal).
Preceptor	<i>Standard-Setter</i> : Not intervention to change things, but saying what must be done for things to change. Articulation of wisdom and experience.
Mentor	<i>Source of Advice, Education, or Recommendations</i> : The recipient can take it or leave it. Does not specify a standard or benchmark.
Facilitator	<i>Assistance</i> : Participation in whatever course of action is decided upon. Carry out the decision and provide expert assistance on how to do it.
Provider	<i>Service Provider</i> : Supply services and assurance that these services meet obligations. May or may not be a provider of choice.
Enabler	<i>Provider of Tools/Infrastructure</i> : For example, providers of whole-of-enterprise metadata frameworks, portals, and interfaces.
Monitor	<i>Reporting System</i> : Collect information on the conduct of recordkeeping. Similar to financial reporting underpinning effective audit (see below).
Watch-Dog	<i>Intervention</i> : when wrong-doing or a departure from standards/procedures is detected. Prosecution, publicity, warning. Routine, not discretionary.
Enforcer	<i>Watch-Dog with Teeth</i> : Involves compulsion or inflicting penalties – directing others, detecting transgressions, altering behaviour by punishment/sanction.
Auditor	<i>Evaluation</i> : of performance against pre-determined standards or benchmarks. Reporting the results.