

SAA ARCHIVES MANAGEMENT ROUNDTABLE NEWSLETTER  
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*This edition of the Newsletter contains two articles of special interest to archivists serving in administrative and managerial positions. The author of the first article, Nancy Marelli, is Director of Archives at Concordia University Archives in Montreal, Quebec. Last year, she authored **Implementing Preservation Management: A How-to Manual for Libraries**, available from the Society of American Archivists.*

PRESERVATION MANAGEMENT

Over the past two decades, the preservation and access function in archives has gone through dramatic shifts and changes:

- We have moved beyond an emphasis on restoration of single valuable items.
- We have introduced the concept of preventive conservation.
- Most recently we have developed the principle and practice of Preservation Management.
- We are now in a period where we continue to develop and refine Preservation Management.
- Preservation Management is the concrete expression of the principle of preventive conservation. It gives us working tools, or practical means, to implement preservation in our archival institutions.

Preservation Management is both global and integrated--it allows us to deal with the physical well-being of all of our documents rather than the precious few, and it makes preservation part of all archival functions, not a marginal activity which we do sporadically. It helps us to provide for an ensure both present and continued access to the archival documents in our care. It is a living, breathing, evolving archival activity which must incorporate the use of the most recent technology in finding solutions to problems of preservation and access.

At one time, preservation/conservation was something archivists hired a conservator to do for us. Having conservation work done was often very expensive and usually some what mysterious. With the advent of increased emphasis on preventive conservation in the 1980s, it became clear that archivists had to be more involved in the preservation of our documents. Our collections were deteriorating rapidly and we could not keep up. What was not so clear was what we should do. Preservation Management is a response to that dilemma--it empowers, indeed requires archivists to manage the preservation function

preventive conservation, the ongoing development of tools and devices not as an end in itself, but to enable us to apply preventive measures to our holdings in order to ensure continued access.

Preservation, or preventive conservation, is really a complex of activities rather than single activity. We cannot just jump in and hope for the best; we must proceed systematically. Preservation has to be planned and integrated into the everyday functioning of our institutions. We shift the emphasis from direct intervention with a single document to the management of the overall preventive measures which can result in more effective preservation strategies. For example, we ensure we have the best available environment; we insist on proper care and handling of our documents, and we judiciously select reformatting projects for preservation and access. None of these things takes place in isolation. They are part of a preservation program which is made up of many interrelated parts. The program has to be planned carefully, so we proceed in a systematic and logical fashion, or we waste precious resources and end up with the job still undone.

#### Why do We Manage Preservation?

Preservation and access go hand in hand and are fundamental archival functions, as are appraisal, and arrangement and description. We manage preservation as we manage other archival functions.

With the best of intentions, but lacking a coherent strategy, the all-too-common past preservation practice in archives has been a pinch of this and a pinch of that, a workshop here, and a bit of information there, with an occasional large dose of expensive restoration of a valuable single item. This approach has resulted in a hodgepodge of ineffective, makeshift solutions to the enormous problems of the long-term preservation of and access to our holdings. Faced with deteriorating documents and inadequate resources, we need a coherent, managed approach. We cannot hope to do an item-by-item restoration of our massive holdings. We must proceed systematically using our scarce resources effectively. Preventive conservation is the basic principle which will allow us to address the problems, and Preservation Management provides the tools and mechanisms with which we will do it. We archivists need to stretch the effectiveness of what we do with our preservation resources. We must do more with less! We manage preservation, because we cannot afford to do otherwise --Preservation Management give us more bang for our preservation buck!

#### Responsible Custody

Preservation and access are the responsibility of the archival manager. It may seem simpler to assume that conservators can

afford to hire them, but we cannot afford to dismiss the problems of preservation and access with this simplistic and false solution. We are ultimately responsible for the appropriate preservation of and access to our holdings. Archivists are the ones who must ensure responsible custody. Archival managers are responsible for ensuring that the preservation and access function is part of the day-to-day activities in our institutions.

Access -> Plan -> Act

In the management of most things, the most logical order in which to proceed is to Assess, then to Plan, and finally to act. So it is with Preservation Management.

In order to be effective, a Preservation Management Program must start with an assessment of the current situation. Only then can the planning process begin, including the development of appropriate policies and procedures, and a strategic plan. Finally, we act.

Archives managers have the ultimate responsibility for the preservation of our documents. Only by applying sound management principles and practice will be able to fulfill this responsibility. The buck stops with us!

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LAWYERS AND ARCHIVISTS: UNEASY BEDFELLOWS  
IN THE PURSUIT OF JUSTICE

Archivists value information, provenance, access, privacy, and documentation. They are oriented toward long-term preservation of records and access to information for the sake of research and scholarship.

Lawyers advocate for clients, gathering and analyzing evidence to support the client's legal position and expose the opponent's weaknesses. Records serve as sources of information and items of proof, useful tools but not necessarily icons. Deadlines, crowded calendars, and competitiveness are facts of life for attorneys, yet good lawyers maintain their integrity in long-term relationships with other lawyers, agency officials, and courts.

Lawyers and archivists interact during litigation, donor and contract negotiations, or during other corporate or institutional business. Different goals and world views may create misunderstanding. This article presents suggestions to make the

fruitful as possible.

#### What You Should Do if You are Sued

· Don't panic. Life is too short to panic. You are not helpless, provided that you help yourself and work as a team with your attorney. The law often can be used to your benefit, and you may have more bargaining power than you think.

· Lawsuits begin when the plaintiff files with the court a Summons and Complaint and serves both on the defendant. The defendant has a limited period of time to file a written Answer.

Your archives may begin a lawsuit or be sued by another, or a donor may be a party to a lawsuit and involve the archives. If you receive a legal notice or document--a Summons and Complaint, Subpoena, or Request to produce documents--don't ignore it. Make a copy for your files and take the original in person to your lawyer, corporate or organizational counsel at once. Time is of the essence and often is critical. Most legal documents have a deadline for action or response. A missed deadline may cost you a victory in court or an opportunity to preserve your legal rights. Courts tend to dismiss excuses for missed deadlines.

You may receive a Subpoena to give a Deposition, sworn oral testimony in the form of answers to questions asked by attorneys and recorded by a court reporter. Or, you may receive Interrogatories, written questions to be answered in writing, or a Request for Production of Documents, a written request to provide specified documents for inspection and copying.

Flawed discovery requests may be challenged, limited, or curtailed. Subpoenas must have constitutional and legal authority. It is wise to pay attention to the procedural details and challenge defective procedures early in discovery.

· Be aware of all deadline dates during discovery and take all discovery requests to your attorney as soon as received. Discovery rules specify 30 days (or reasonable periods) for compliance, and indeed, in all legal actions, it is implicit that "reasonable time" is allowed to respond. You need not produce any documents before the specified deadline unless ordered by the court. Consequently, a demand for immediate access to records should be refused until you consult a lawyer.

· Once litigation has begun, immediately stop any planned destruction or transfer of all records subject to litigation. Discuss with your lawyer how to limit access to the affected records. The best course may be to withdraw the records from all public access during litigation.

· Help your attorney maintain your confidential information.

from the others. Do not discuss confidential matters in the presence of others. Be careful when handling and disposing of documents.

- Do not grant your opponent access to disputed records unless your attorney is present. Examine all documents with your attorney before any are released. Never, never let the opposing side see files you and your lawyer have not previously reviewed or give the opposing side free rein to go through your files.

- Review all original documents with the lawyer and provide legible, accurate photocopies of requested documents with information about provenance. Be alert for documents that may be protected by attorney-client privilege, privacy rights, and trade secrets and proprietary information, and bring these to your lawyer's attention. With your affidavit or testimony about provenance, donation, arrangement, location of documents, and photocopying procedures, the photocopies may be admitted into evidence and the originals may never leave the archives.

- Simple things are important. List all documents copied for your lawyer and make a copy of each for your files with title, folder number, and location. This is helpful during protracted litigation and helps let the attorney trust and rely on you.

- After retaining an attorney, do not deal directly with the opposing counsel. All subsequent communications should occur between the lawyers and the court, not the parties.

- Be an active partner in litigation. Establish a relationship of mutual trust, respect, and cooperation with lawyers through communication, education, and sharing information. Be patient with the normal delays of the legal system. Follow the lawyer's advice and accept reality when necessary.

- Educate your lawyer--only you know the facts of the matter in the dispute! Provide complete information--good, bad, and unimportant--and let the lawyer plan strategy. Be open and candid. Once you are the attorney's client, she must maintain confidentiality of your communications made in respect to litigation. If you see incorrect or inconsistent facts in your opponent's case, point them out to your lawyer.

- Don't assume the lawyer understands archival administration or records management. Provide the code of ethics and a good background article. Explain what you do and why, including donations, storage, access, and security policies and procedures. Suggest a tour of the archives--it provides another opportunity to educate, communicate, demonstrate professionalism, and build trust. Cooperate with the attorney's requests, but uphold archival ethics and standards and legitimate institutional policies and procedures.

· When meeting with your attorney, be prepared. Take relevant names, addresses, dates, recollections, of events and conversations, and documents. Identify witnesses. Be familiar with pertinent documents, their contents and uses, and why they are at issue.

· Keep the lawyer informed of any changes in your situation and insist that you also be informed. You should expect copies of all documents exchanged with the court and opposing counsel. Review these documents and point out any inaccurate, incomplete, or misleading facts and information. Ask for a periodic status report from your lawyer. Share your insights with your lawyer. If you testify in person, ask your lawyer to help you prepare.

· Be reliable and professional. Model your actions on an attorney's by advocating for the archives and archival process. Inform the lawyer of your education and experience. Act and dress professionally and appropriately. Acting professionally helps validate the information you produce and helps keep you in command of your role and responsibilities.

· As the case progresses, the lawyer will develop your claim or defense, and the steps needed to prove it in court. Understand the theory of the case to help your lawyer pursue your interests.

· Look for appropriate outreach opportunities within your institution. Demonstrate your effectiveness and the importance of the archives to supervisors and executives.

· Lawyers are in business to sell legal services to clients. Remember that you are the consumer. Ask about deadlines, expected outcomes, and fees and costs. If you do not trust or feel comfortable with a lawyer, discharge her in writing, ask for your file, and retain another lawyer.

### Conclusion

If you are involved in a legal matter, don't panic, seek good legal advice as soon as possible, work closely with and educate your lawyer, and remember that you often can negotiate and work with the law to improve your legal position.

### BOOK REVIEW

Bernstein, Albert J., and Rozen, Sydney Craft. *Dinosaur Brains: Dealing with all Those Impossible People at Work*. New York: John Wiley & Sons, c1989. 256p.

*Dinosaur Brains* contends that human beings act like reptiles by behaving instinctually. The human brain has rationality (the cortex) superimposed on primitive reflexes. Dinosaur thinking, therefore, is short-sighted, impulsive and irrational. The

flight, or fright--in response to unnerving occurrences. By contrast, the effective manager puts his or her reasoning abilities in charge of the situation.

Dinosaur thinking works against an effective management style. Long-term planning is anathema to dinosaurs, who prefer crisis management, or putting out fires. Dinosaurs avoid risk-taking and self-promotion; instead, they favor fitting in and not making waves. As they rise up the management ladder, "solitary dinosaurs" isolate themselves from meaningful contact with other people through affairs or alcoholism. The workplace dinosaur is not a person whom his or her peers will view as a leader.

The authors review manipulation strategies and demonstrate how anger can be positively applied. They stress the importance of staying rational: one, for instance, should avoid grudges and name-calling and try to keep his or her anger proportionate to the situation that provoked it. Much of what they suggest is simple common sense: for example, in dealing with irate clients, the effective manager should listen, identify the client's needs, and help him or her save face. The chapter on motivation gives practical suggestions for being a better manager: listen, set goals, monitor the situation, and delegate.

This book is must reading for archivists serving in managerial and administrative positions. It offers many helpful suggestions about how to recognize turf battles and cope with office politics in such situations as office romances or working with a mentor.