Guidelines for the Digitization of Private and/or Culturally Sensitive Materials

There are a number of legal and ethical considerations that must be accounted for when proposing a digitization project. These include understanding privacy legislation and protocols regarding culturally sensitive materials.

The following guide briefly outlines privacy legislation and its impact on digitization. However, you should also be aware that there are specific protocols that apply to First Nations materials. Please consult the Society of American Archivists’ Protocols for Native American Archival Materials for further details.

Privacy concerns must be considered when digitizing rare and unique materials, especially when this information has not previously been published or distributed widely. This applies to the records of individual people and organizations (private collections) and the records of UVic, its predecessor institutions, or other public bodies (public records). Prior to digitizing material there must be thought given to whether or not making personal information openly available would be an unreasonable disclosure of personal information.

In British Columbia there are two pieces of legislation, and a variety of related judicial interpretations, that relate to privacy:

Freedom of Information and Protection of Privacy Act
Personal Information Protection Act

The following questions can help to determine whether or not there are privacy restrictions.

1. Do the records contain personal information?

Personal information is defined as recorded information about an identifiable individual, other than contact information, including but not limited to:

- names, home addresses and telephone numbers;
- age;
- sex or gender;
- marital or family status;
- identifying number;
- race, national or ethnic origin;
- religious or political beliefs or associations;
- educational history;
- medical history;
- disabilities;
- blood type;
- employment history;
- financial history;
- criminal history;
- anyone else's opinions about an individual;
- an individual's personal views or opinions; and,
- name, address and phone number of parent, guardian, spouse or next of kin.
If you answered no to all of the above then the material in question likely doesn’t have privacy restrictions.

If the material does include any of the above types of information, then:

2. Are the records containing personal information over 100 years old?
3. Does the personal information relate to someone who has been deceased for 20 years?
4. Have all the parties named in the records agreed to the disclosure of their personal information online?

If you answered yes to any of questions 2-4, then the material in question likely doesn’t have privacy restrictions.

If you answered no to questions 2-4, or you are not sure of the answers, then there may be privacy restrictions on the material. In this case a further discussion needs to take place to consider whether consent from the named persons can be obtained. For further information please consult University Archivist, Lara Wilson: ljwilson@uvic.ca.