

# Review Article

## From Keep and Destroy to Remember and Forget: Dimensions of Accountability Value

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**Archives and the Public Good: Accountability and Records in Modern Society.** RICHARD J. COX and DAVID A. WALLACE, eds. Westport, Conn.: Quorum Books, 2002. 340 p. ISBN 1-56720-469-4.

Richard Cox and David Wallace are to be congratulated for an excellent and timely collection of fourteen articles, dealing primarily with accountability as it concerns the public record and its legal and evidential values. Accountability seems to be on every archivist's mind these days; accountability has even claimed stage presence as the theme of archival conferences, such as the meeting of the Association of Canadian Archivists in Montreal in 2004.

The subject of accountability in this volume is shaped predominantly by the scandals of the late twentieth century which resulted from exposing malfeasance concerning the public record – involving state secrecy and records closure, inaccessibility to records, ineffective record-keeping procedures and systems, erroneous or questionable records, the failure to create records, or unauthorized or premature records destruction. The book's thesis is that accountability for record-keeping, aided by information legislation, supports the public good.

This interpretation of accountability and records comes on the heels of initiatives during the 1980s and 1990s to promulgate access to information (or freedom of information) legislation. Riding on the wave of the citizen's legislated right to know, the theme of accountability was appropriated by records managers and archivists. Information professionals hitched their advocacy for responsible record-keeping and accurate records to this evidential notion of accountability. The emphasis on legal accountability was well fed by repeated revelations of scandalous or questionable record-keeping practices of elected individuals or public institutions, many of which are recounted in this volume. Overall, the theme of accountability for record-keeping as established by legislation permeates this book, including those articles not explicitly telling an access-to-information story.

The editors cleverly introduce a new layer – or at least a new nomenclature – to archives when they summarize their aim that this collection will “enhance the appreciation of the accountability value of records” (p. 13). Their hopes have been more than realized as far as the evidential and legal aspects of accountability value are concerned, one dimension of accountability, and the public record. But is this the only “accountability value,” and is it sufficient for contemporary discourses on accountability for archives, which are tied less to the public’s right to access information for the purposes of surfacing evidence of wrongdoing and more to telling stories and (re)constructing narrative for purposes of justice and healing? Record-keeping accountability with the goal of finding or exposing the truth (evidence) is laudatory; record-keeping accountability with the goal of acting on the consequences of that truth is more satisfying.

The majority of the cases in this collection fall inside the realm of accountability as tied to records – created or absent – “accounting” for a wrongdoing. Case after case reveals how exposure of cover up and secrecy (or simply of record-keeping choices) eventually leads to accountability for the public good. A few articles go further. These particular articles are groundbreaking for they challenge archives to concern themselves not only with evidence but also to embrace the dimension of accountability values one could call “remembering and forgetting.”

Just over half of the cases are American: the Martin Luther King, Jr. Papers (James O’Toole); Iran-Contra (David A. Wallace); the Internal Revenue Service (Shelley Davis); the Brown and Williamson Collection on cigarette companies (Robin L. Chandler and Susan Storch); the Tuskegee syphilis study (Tywana Whorley); Holocaust-era assets (Greg Bradsher); and U.S. foreign relations during the Cold War (Anne Van Camp). A fascinating article on forgeries by David B. Gracy II focuses on American examples, but not exclusively. Non-American contributions, including three by Canadians, include: Canada’s destruction of records on Nazi war criminals (Terry Cook); the International Records Management Trust’s records accountability workshops (Kimberly Barata, Piers Cain, Dawn Routledge, and Justus Wamukoya); South Africa’s destruction of apartheid-era records (Verne Harris); the collapse of Jamaica’s indigenous commercial banks (Victoria Lemieux); Montreal’s Concordia University’s Fabrikant affair (Barbara L. Craig); and Australia’s Heiner affair (Chris Hurley).

Following an introductory article by the editors, the collection is divided into four parts entitled Explanation, Secrecy, Memory, and Trust. In the section on Explanation, Terry Cook’s article stands out for its depiction of the (then) National Archives of Canada’s defense in the mid-1980s of earlier destruction of select immigration case files, including those of Nazi war criminals. The incident launched the National Archives into the media headlines and put the institution and its government archives managers on the defensive

in the face of those who assumed that archival policies of destruction had thwarted the possibility of justice by bringing immigrant Nazi war criminals to trial. While the Cold War climate and post-Second World War political scene set the stage for the outcry, the real focus for the Archives was on accountability and education: accountability for routine records destruction needed to be explained to the public as part of the defense of its normal course of business. But, more than explanation to an interested public, this particular incident, from which the National Archives emerged relatively unscathed, forced the national memory institution to examine its internal procedures and recorded accountability for them, as well as its appraisal choices for long-term evidence of government programs and functions.

This incident was a key driver whereby the National Archives inaugurated a new comprehensive and planned approach to appraisal and disposition. Perhaps few in the international archival community are aware of the impact that this particular incident had on moving Canada's national institution towards macro-appraisal and accountability for archival appraisal choices. As explained by Terry Cook, macro-appraisal focuses on the values of society contemporary to records creation by moving the focus from, in this case, the billions of records created in the immigration function, to the functional-structural context of their creation. Such an approach situates appraisal in a broader analysis of the function of qualifying and admitting immigrants to Canada, rather than looking at isolated case files created in one particular location on one aspect of the immigration function: "From this broad or 'macro' view of all the information relating to the function, the archivist is better able to choose the best, most succinct record to document Canadian immigrants, and their interactions with the state, because the forest is seen as a whole, rather than just a few trees in isolation" (p. 63). While an examination of such macro approaches demonstrates that it is unavoidable for a few archival records to slip through the cracks, the associated methodologies provide a defensible rationale that was not at hand in the mid-1980s. Accountability in this article means political accountability for the government's actions generally and evidential accountability for archival appraisal practice and procedures and, as such, it fits well with most other articles in this book.

Cook also hints that the archivist's accountability may be different from that of the departmental records manager insofar as the archivist is accountable for choosing which records will form the lasting national memory and the records manager is accountable for meeting legal and operational requirements of the creating institution. This distinction is important for Cook, and could help to clarify what some readers may find as inconsistent interpretations of accountability in this volume. While the editors have met their laudable goal of producing a collection to serve professors and archivists *and* lay persons alike, they could have provided more context about what they mean by "accountability value": where and when does accountability value become

appraisal value, for example? For this reader, Cook's distinction provides a start to understanding the sometimes murky territory of definitions of "record-keeping," "value," and "accountability." An explanation does exist for different views of record-keeping accountability in different jurisdictions such as Australia and Canada. Depending on the tradition, archivists may or may not be accountable for records retention (in the Canadian federal government model of macro-appraisal, they definitely are not). In different scenarios and under different laws, archivists may be accountable to research, analyze, and make appraisal choices about what to preserve but are not accountable for the destruction of the remainder. Alternatively, they may be accountable to make appraisal choices, approve retention periods for non-archival records, and oversee final destruction (not only preservation), usually in consultation with departmental records managers. They may also find themselves in a variation of these two models. Accountability varies, depending on the situation, and readers must be aware of the contexts which inform the authors' different interpretations of accountability.

David Wallace's article in the section on Secrecy chronicles the "plausible denial" by U.S. officials of their covert actions in Iran and Nicaragua from the 1970s onward. In this very satisfying revelation and analysis of the cover up of diaries, electronic documents, e-mail messaging, and related documentation at the highest levels, Wallace expansively moves beyond his earlier work on the Oliver North e-mail episode, often referred to as the PROFS case. This time, Wallace provides a thorough examination of assorted follow-up investigations and trials, underlining the point that the façade of deniability collapsed when volumes of documentation on the covert actions became so publicly evident. The government was held accountable for its actions when the documents that had enabled, documented, and obfuscated investigations – by having been altered, destroyed, never filed or otherwise rendered inaccessible, or stolen, if not kept secret – became the focus of the trials. Accountability for Wallace, in this instance, is accountability for the control of information. More specifically, he demonstrates that "document creation, use, circulation, and disposal are deeply embedded in organizational activities," including covert actions that "require the strongest confidentiality and secrecy" (p. 111). While those at the hub of covert organizational activities did not want certain information to escape their control, their very need to control all the intricacies of their activities by maintaining records of operations ironically undercut their eventual control of the secret information, and this led them to panic and scramble to alter, destroy, or withhold that information as time went on. The control of the information was just as key to carrying out covert actions in Iran and Nicaragua as it was to efforts to prohibit investigations to be carried out when the scandal became known. The evidence that the information might reveal could hold officials accountable in an age of freedom of information legislation and related accountability values. But, even following three inves-

tigations, full justice for the “implausible deniability” surrounding the Iran-Contra Affair never came. Wallace seems disheartened at the end of his brilliant essay to have to report that, no matter what powers of oversight exist to seize the documentary record for democratic accountability, human nature leads people involved in scandals beyond “honour” to a place where they cannot be trusted to be truthful and cooperate “in good faith.” This is a thread at the end of the article that hints at possible other, less black and white, aspects of “accountability values,” but the thread is not woven further.

Chris Hurley’s fulsome article on the Heiner affair in Australia is in the section on Trust. The Heiner affair, as it has come to be known, is an intricate story that spans more than a decade of political wrangling and ill will in which destruction of records, supposedly recounting allegations of wrongdoing and abuse against minors by corrections officials, was carried out by the State Archivist of Queensland in obeisance, more or less, to what had been commanded by the highest level of government. The State Archivist was told that the government’s motivation in seeking destruction was to prevent access and thereby thwart any defamation action that might be taken (p. 296). Because these records were destroyed, answers will never be found to the many questions which arose subsequent to the destruction (much like we see in the Iran-Contra story).

One of the burning questions that Hurley’s article raises is one that confronts the contemporary archivist living in the age of information law. In fact, the question around which Hurley weaves his argument juxtaposes two dimensions of accountability values: should government records archivists be interested primarily in protecting records for the purposes of preservation of long-term archival and historical memory, or should archivists prohibit the destruction of records of evidence of wrongdoing (whether archival or not) and, for the latter, does the question change if the archivist allows destruction without knowledge of their status under freedom of information legislation? A corollary question, also tied to accountability, might be: to what extent should archivists go to audit record-keeping practices? For Hurley, and for many archivists, what it really boils down to is the following: is the archival mission active or passive?

Some would argue that these are two separate questions – that the reason for keeping archival records (for historical memory or for evidence of accountability) is quite a different question from the *raison d’être* of the archivist (passively to safeguard memory or actively to gather or unveil evidence). Hurley does not skirt the issues facing the contemporary archivist; he chooses to ruffle a few feathers. He speaks out – for ethics, for justice, for archives, for the record – in other words, for evidence *and* for memory. Unlike many archivists, who for most of history have unobtrusively waited for the residue of documentation to become “archives,” Hurley is not afraid to say that archivists not only are legally accountable but also morally responsible for the

keep-destroy decisions they make. Hurley promotes the cause of the “whistle-blowers” in the Heiner affair, and believes that all archivists should do the same in their respective jurisdictions. In many ways, Hurley’s article is the matrix of the collection for its exploration of more than one dimension of accountability values. However, while Hurley’s interpretation of the Heiner affair extends accountability value beyond the protection of the record for its evidential quality to the importance of using records for correcting an historical wrong against innocents, his primary focus is on the professional errors of archives and archivists and the lessons learned.

Like the Hurley and Wallace articles, many others in this collection provide convincing proof that willful manipulation of the public record does occur even in democratically advanced countries. Interestingly, a study published in *Archivaria* in 2002<sup>1</sup> which examined record-keeping practices prior to and after the 1983 introduction of access to information legislation in Canada, challenged the hypothesis which linked access to information to records manipulation. Rather than altering the record after the passage of access to information legislation, government records creators and keepers maintained the same record-keeping practices. The record was not compromised at all. It seems that the links between archives and access legislation are multi-faceted, and assumptions must be tested before sweeping conclusions can be made. The question arises for archivists in countries just embarking on access to information legislation: does access to information legislation in fact protect the archival record and promote the archival mission? As the articles on International Records Management Trust accountability workshops in Africa and the Jamaican indigenous bank crisis suggest, access to information is fundamental to basic human rights (part of the “public good” in the title of the book) around the world because it protects information and evidence; the hope is that it will also promote the archival mission of long-term preservation of records with enduring value. Only time will tell.

Two articles in the section on Memory go further along the path that Hurley outlines. Verne Harris’s and Tywana Whorley’s sensitive articles are fine examples of the dimension of accountability value we might call remembering and forgetting (and Greg Bradsher’s article on Nazi gold with its appropriate title, “Turning History into Justice,” deserves special mention). These articles recount record-keeping regimes where records were withheld, destroyed, or massaged to keep groups of people from just and fair treatment. In other words, these authors show, like most of the articles do, how the evidential value of the records was compromised. But they go further. They take the sto-

1 Kerry Badgley, Margaret J. Dixon, and Paulette Dozois, “In Search of the Chill: Access to Information and Record-Keeping in the Government of Canada,” *Archivaria* 55 (Spring 2003), pp. 1–19.

ries – on South African apartheid and syphilis among African Americans – and use the evidential angle only as a means to arrive at a more complete and satisfying analysis, one in which using evidence for justice goes beyond completing, “proving,” or defending a story to retelling and rewriting the story – for the victimized but also for the overall public good. These stories, and especially the way these archivists choose to tell them, shift the focus from a legislative paradigm of “keep and destroy” to a justice paradigm of “remember and forget.” The impact of an accountability which comes full circle is profound: it goes beyond evidence (and even beyond memory) to *memorializing*, beyond story to healing.

Verne Harris’s article forcefully demonstrates that from 1990 to 1994 the South African apartheid government used “tools of forgetfulness” as part of its “state-imposed amnesia” to systematically sanitize its “memory resources” prior to the transfer of power to a democratic government. Although the full extent of sanitization will never be known, the analysis and recommendations of the 1998 Truth and Reconciliation Commission (TRC) point to gross record-keeping misconduct over many decades and into the 1990s period of transition. As a result of the accounts of the transition to democratic government, even the average South African citizen has become acutely aware of the necessity of fulsome and accurate record-keeping. In the South African story, accountability in the first instance is tied to transparency of government functions and deliberations, to the extent that the TRC recommendations supported the National Archives as the auditor of government record-keeping. But for Harris, justice is a more important cause than good record-keeping or proper information legislation. He is less concerned about misplaced, destroyed, or misconstrued evidence than he is about re-purposing the record to re-establish a story, to hand it back to those whose stories either are not found in the archives or – perhaps worse as we shall see in Whorley’s article – only partially told. Like Whorley, Harris recognizes that “memory is never a faithful reflection of process, of ‘reality’” (p. 205). His words are worth quoting: “Memory is shaped, reshaped, figured, reconfigured, by the dance of imagination, so that beyond the dynamics of remembering and forgetting, a more profound characterization of the struggle in social memory is one of narrative against narrative, story against story” (p. 205).

Tywanna Whorley, too, knows that “memory is deeply implicated in concepts of accountability” (p. 173), particularly as it concerns African Americans for whom the collective past is always present. Her story is about a forty-year-long government-supported study of African American men who had syphilis but who were never told about nor treated for their disease, although the patients believed they were in a treatment program. Now officially completed, the Tuskegee Syphilis Study will however never be over for African Americans, because distrust of the American government over the release of records has manifested itself in the community through the development of

myths to explain historical events. The government has provided unrestricted access to records that provide evidence of its involvement in the study, which provides some accountability, but patient records are still inaccessible, even to the relatives of the diseased. For Whorley, archival records fulfill important functions as instruments of accountability and building blocks of collective memory. When the record is incomplete, inaccessible, or untrustworthy, the victims' voices of the present will chime in to document the gaps in the historical record, and a repurposed memory will be created. In the case of the Tuskegee Syphilis Study, these voices are openly retelling the story of the study and putting the experiment on the public stage. This "memorializing [by] the participants of the clinical tragedy would cement their experience within public memory." In the absence of complete evidence and full accountability, a museum in Tuskegee, Alabama was established in 1998 with the goal of drawing public attention and paying tribute to the victims of the study, and to "serve as a reminder that the healing process is ongoing" (p. 171).

It appears that more can be done. None of the authors explicitly extends the dimension here (although a few do in other writings) to problematizing truth by recognizing that accurate record-keeping and fulsome access to records can create a space for different stories, even competing stories, and deconstruct the simplest of stories and interpretations. By assuming their individual and collective accountability for the archives in their care and for the archival profession, archivists will see the greater challenges and reap the fuller benefits. In her article on the Fabrikant Affair, Barbara Craig concludes that for academics "trust (is) anchored freely in personal accountability" (p. 288), and this can be extended to the archival profession.

Perhaps the line between evidence and memory blurs as the evidential archival record ages and assumes its place in memory. Perhaps the legal record that will be created today as part of record-keeping accountability demanded by access to information legislation will perform a significant symbolic act in the future; in such cases, although the record itself will not change, its value will increase to become enduring and archival. Perhaps the dimensions or strata of accountability values together form bedrock upon which future stories can be told and retold in all their fullness.

Ian E. Wilson has written that the concepts of information, knowledge, accountability, and memory are all connected and at play at the same time.<sup>2</sup> It behooves archivists to examine continuously their reasons for appraisal choices: what do "informational value," "evidential value," and "legal value" mean in the current context? What could they mean in the future? While appraisal values are not necessarily synonymous with accountability values in

<sup>2</sup> Ian E. Wilson, "Information, Knowledge, and the Role of Archives," *Canadian Journal of Information and Library Science* 25 (April 2000), pp. 19–34.



all instances, and the latest research fad is not necessarily the best foundation on which to base an appraisal choice, the articles in this collection demonstrate that archivists must nevertheless make defensible choices which take into consideration “accountability values” for future justice, for the public good.

All the articles in this collection are excellent. There is something here for every citizen concerned about records, rights, and the public good. But the collection is particularly important for archivists interested in record-keeping issues of relevance in this day and age of accountability values.

