TRYING TO PUT IT OUT THERE:
Confronting Challenges in Processing & Providing Access to Legal Collections

Session #107
COSA/NAGARA/SAA Joint Annual Meeting
August 2018
Challenges of Legal Collections – Examples

• **Negotiating donation of contemporary legal records**
  • Prospective donors and/or administrators may be risk-averse when it comes to legal materials due to concerns about attorney-client privilege and duty of confidentiality

• **May come with long access restrictions**
  • An institution’s “return” on investment in preserving and describing legal records may take many years to realize, in the form of use

• **May require additional processing time**
  • Older legal records may require special attention in order to identify them and properly describe them to unlock their value
Today’s Presentations

1. **Navigating Challenges in Processing and Providing Access to the American Civil Liberties Union Records**
   Kate Palm (American Civil Liberties Union)
   Rachel Van Unen (Massachusetts Institute of Technology)

2. **Archivist vs. Legal Counsel: Local NACCP President’s Papers**
   Linda Reynolds (Stephen F. Austin State University)

3. **“That’s Not a Letter”: Adventures in Identifying 19th-Century Legal Documents**
   Jennifer McGillan (Mississippi State University)
Navigating Challenges in Processing and Providing Access to the AMERICAN CIVIL LIBERTIES UNION RECORDS

Kate Palm
Associate Archivist & Records Center Coordinator
American Civil Liberties Union

Rachel Van Unen
Archivist for Collections
Massachusetts Institute of Technology

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History of the ACLU-Princeton Partnership

1920: Earliest ACLU records deposited at NYPL
1953: ACLU-Princeton agreement signed, but no provision made for access restrictions
1993: New gift agreement signed
1994: ACLU and Princeton negotiated categories of access restrictions

- NHPRC-funded processing projects at Princeton in mid-1990s and 2010-2012
- “Annual-ish” transfers since 2011
1953:

5. ACCESSIBILITY

The American Civil Liberties Union Archives will be placed on the same footing as other unrestricted collections of manuscripts in the Princeton University Library. These are available for research purposes, subject to the Library’s general regulations, to scholars both within and outside of the University.

1993:

6. ACCESS

The American Civil Liberties Union Archives shall be open on an equal basis to all researchers registered with the library unit holding the Archives. Certain sections of the records, however, shall be restricted for stated periods of time according to a separate agreement regarding access.
Access Agreement

Legal Case Files shall be segregated into four categories:

1) Open Records
2) Work Product Privileged Records
3) Attorney-Client Privileged Records
4) Permanently Closed Records

For the full text of the access restriction agreement terms, please see:

https://libguides.princeton.edu/mudd_aclu ("Types of Access Restrictions")
How Does the ACLU’s Archives & Records Management Department Accession ACLU Legal Records?
Accessioning

- Per our RRS, staff identifies legal case files as records to be retained “permanently”
- Legal staff applies access restrictions (usually)
- Legal staff delivers boxes to us with transfer forms
- ARM staff captures existing metadata and creates additional descriptive metadata
<table>
<thead>
<tr>
<th>Record Series Number</th>
<th>Record Series Title</th>
<th>Suggested Total Retention Period</th>
<th>Suggested Departmental Retention Period</th>
<th>Suggested Archival Retention Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>078</td>
<td>Legal Exhibits</td>
<td>PERMANENT</td>
<td>while case is active and needed for business purposes</td>
<td>transfer to the Archives at end of departmental retention period</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>transfer to Princeton for PERMANENT retention</td>
</tr>
<tr>
<td>079</td>
<td>Legal Judgments</td>
<td>PERMANENT</td>
<td>while case is active and needed for business purposes</td>
<td>transfer to the Archives at end of departmental retention period</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>transfer to Princeton for PERMANENT retention</td>
</tr>
<tr>
<td>080</td>
<td>Legal Memoranda</td>
<td>PERMANENT</td>
<td>while case is active and needed for business purposes</td>
<td>transfer to the Archives at end of departmental retention period</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>transfer to Princeton for PERMANENT retention</td>
</tr>
<tr>
<td>082</td>
<td>Litigation Files</td>
<td>PERMANENT</td>
<td>while case is active and needed for business purposes</td>
<td>transfer to the Archives at end of departmental retention period</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>transfer to Princeton for PERMANENT retention</td>
</tr>
</tbody>
</table>
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Color Labels = Access Restrictions
Accessioning

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Records Transfer Form

**FOR LEGAL CASE FILES ONLY:**

*End date of case(s)*

- Provide the year that case(s) ended/closed (e.g., “2007”)

**Case citation(s)**

- Include citations, if known, for each case (e.g., “478 F.Supp. 2d 755 (E.D. Pa. 2007”).

Please check to be sure that you have applied color label stickers to each folder of legal records prior to transfer to indicate the appropriate access restrictions.
Accessioning

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Sources of Metadata for Legal Records

RRS

Transfer Form

Color labels

Catalog record

ARM-created

.csv file

Princeton
How Does the ACLU Prepare its Legal Files for Archiving?
Archiving to Princeton

1. Identify boxes eligible for disposition
2. Review boxes and remove confidential folders
3. Tweak metadata and send to Princeton
4. Vendor picks up boxes and delivers to Princeton
How Does Princeton Determine Access Restrictions?
<table>
<thead>
<tr>
<th>Category</th>
<th>Open Date</th>
<th>Label/Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open</td>
<td>Immediately</td>
<td>“Open” sticker</td>
</tr>
<tr>
<td>Work Product</td>
<td>26 years from latest date in folder</td>
<td>“Work Product” flag (only if restriction period has not passed)</td>
</tr>
<tr>
<td>Attorney-Client</td>
<td>76 years from latest date in folder</td>
<td>“Attorney-Client” flag</td>
</tr>
<tr>
<td></td>
<td>101 years if the case involves minor(s)</td>
<td></td>
</tr>
<tr>
<td>Personally Identifiable</td>
<td>76 years from latest date in folder</td>
<td>“Personally Identifiable Information” flag</td>
</tr>
<tr>
<td>Information</td>
<td>101 years if the case involves minor(s)</td>
<td></td>
</tr>
<tr>
<td>Confidential</td>
<td>Permanently closed</td>
<td>Return to ACLU</td>
</tr>
</tbody>
</table>
Access Restrictions – Open

Publicly available materials such as:

- Most court records (briefs, transcripts, exhibits, opinions, etc.)
- Media coverage (press releases, news clippings)
- ACLU reports, pamphlets, and other materials intended for wide distribution
Access Restrictions – Work Product

Documents prepared by attorneys for a case, including:

- Correspondence and memoranda with cooperating attorneys discussing strategy or other issues related to the case
- Drafts of briefs or other court documents
- Statements of witnesses
- Other preparation materials for a case, such as notes on related cases, research papers/memos by staff and interns, etc.
Access Restrictions – Attorney-Client

Private information from clients or potential clients, including:

- Letters to the ACLU asking for legal advice/assistance, even if the ACLU does not take the case
- Correspondence with the court or with attorneys on the opposite side of the case that recounts information from the client not revealed in court or that discusses settlement
- Correspondence between cooperating attorneys if it includes private information from/about the client
- Interviews with the client
Access Restrictions – Confidential

Materials that cannot be made public because of court rulings or privacy laws, including:

- Anything stamped or labeled “sealed by the court”
- Correspondence, notes, and reports from physicians, psychiatrists, or social workers
- Adoption records that reveal birth parents if not disclosed in court
- Any documents that reveal the identity of the clients if they were represented anonymously
- Medical records if not filed as exhibits
Access Restrictions – Personally Identifiable Information (PII)

- Not stipulated in ACLU/PUL agreement
- Only used if content is not already closed due to attorney-client privilege
- Pertains to PII that is prevalent or repetitive
- No redactions
- Used sparingly
How Does Princeton Convey Access Information To Researchers?
Provide Access – Finding Aids

<table>
<thead>
<tr>
<th>ConfID</th>
<th>CallFile</th>
<th>CallAuthor</th>
<th>CallEditor</th>
<th>CallPlace</th>
<th>CallPhysDesc</th>
<th>CallSeries</th>
<th>CallRecordTypeID</th>
<th>CallOfficeOrig</th>
<th>CallDepartment</th>
<th>CallOfficeProject</th>
<th>CallDatabase</th>
<th>CallDateEnd</th>
<th>CallID</th>
<th>CallSeries</th>
<th>CallRecordGroup</th>
<th>CallCopies</th>
<th>CallFoler</th>
</tr>
</thead>
<tbody>
<tr>
<td>874</td>
<td>Najeeb-Boja Amendment Complaint</td>
<td>New York, NY</td>
<td>This box contains case files for the Najeeb-Boja Amendment Complaint</td>
<td>National</td>
<td>Legal</td>
<td>Immigrants' Rights Project</td>
<td>1983</td>
<td>1995</td>
<td>records</td>
<td>box</td>
<td>622 Immigrants' Rights Project (NY &amp; CA)</td>
<td>1</td>
<td>Najeeb-Boja Work</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2163</td>
<td>Harlan Centers Gay Rights</td>
<td>New York, NY</td>
<td>This box contains case files for Harlan Centers Gay Rights</td>
<td>National</td>
<td>Legal</td>
<td>Immigrants' Rights Project</td>
<td>1992</td>
<td>1993</td>
<td>records</td>
<td>box</td>
<td>622 Immigrants' Rights Project (NY &amp; CA)</td>
<td>1</td>
<td>Harlan Centers G</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2227</td>
<td>Brooklyn Institute of Arts and Sciences v. Olubana</td>
<td>New York, NY</td>
<td>This box contains case files for Brooklyn Institute of Arts and Sciences v. Olubana</td>
<td>National</td>
<td>Legal</td>
<td>Immigrants' Rights Project</td>
<td>1991</td>
<td>1995</td>
<td>records</td>
<td>box</td>
<td>622 Immigrants' Rights Project (NY &amp; CA)</td>
<td>1</td>
<td>Brooklyn Museum</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Convert CSV output from ACLU into EAD**
Providing Access – Finding Aids

Intellectual groupings by project/office within each transfer
Providing Access – Finding Aids

Daggett v. Webster: Anthony Corrado

1 FOLDER

Request This Box  Ask a Question

This collection is stored at Mudd Manuscript Library.
Requests will be delivered to Public Policy Papers, MUDD Reading Room.
Collection Creator: American Civil Liberties Union.
Located In: Box 5622
Extent: 1 folder
Languages: English.

Access Restrictions
These records contain work product privileged information. They will open in 2021.

Specific access information available at component level (most detailed level of description)
Requests from portions of the collection that have not been fully reviewed for legal restrictions are automatically routed to the “ACLU Restriction Review” queue.
Providing Access - Aeon

Determine what materials have been requested and check the finding aid to see if they require review.

If you see this language in the access restrictions note, review is required.

All material in the ACLU Subgroup 3, Series 2 must be reviewed for legal restrictions prior to research use. Please allow 3 days before visiting the library to allow time for this review. An archivist will respond within 10 business days.
Providing Access - Aeon

Email templates used to notify patrons when their requests are in progress and when the review is complete.

Notes field used to notify colleagues about the status of requests (can also be used to share information about paging).
Providing Access - Aeon

Requests can be routed to “Review Cleared” queue if open or canceled if the records are restricted.
Evaluating the ACLU-Princeton Partnership

- Physical Storage
- Allocation of Resources
- Accessibility
But What About Born-Digital?

- Developments at both the ACLU and Princeton
  - ACLU: electronic records management program
  - Princeton: digital preservation storage

- Questions/considerations
  - Will the ACLU continue to transfer records to Princeton long before they’re open?
  - Burden of the cost of long-term digital preservation
Thank You!

Kate Palm  
American Civil Liberties Union  
kpalm@aclu.org

Rachel Van Unen  
Massachusetts Institute of Technology  
rvanunen@mit.edu

For inquires about the ACLU records at Princeton  
mudd@princeton.edu
Archivist vs. Legal Counsel:
Local NAACP President’s Papers

Linda Reynolds
Director, East Texas Research Center
Stephen F. Austin State University
Nacogdoches, Texas

COSA/NAGARA/SAA Joint Meeting
August 2018
Arthur Wears

in

Texas

age 17

age 19

age 23
There's no need to stand up and fight for the right if you are not going to stand up and fight against the wrongs.
ONLY $5,000 BOND SET FOR WHITES FOR ARM ROBBERY LAST WEEK

MY LIFE IN SLAVERY
Panoramic of Arthur Weaver’s office
James Foster Jr. (Police Brutality) 1985

Emanuel Lee Ford (MURDER) 1970

ARCHIE LEE FREMON (DISCRIMINATION) 1983

Benjie R. Fitzgerald, P.V. Williams, & Mamie Berry vs. M.C. Robbuck et al. No. T-75-5-CA 1975

Joe Evans (Mrs. O.N. Evans) (DISCRIMINATION) 1978-1984

(3 B.L. Dickerson)

Joe Durham (DISCRIMINATION) 1975-1976

1989, 1991

Jeune Nell Dorsey 1979

Sharika Deasman 1000-2.40


Arthur Weaver Collection 2.4.0.0
LEGAL INVESTIGATION
I SEARCH FOR THE "TRUTH"
TO FIND FACTS TO HELP
WRONGLY "ACCUSED"
PERSONS "WIN "JUSTICE"
IN "COURTS" MY ONLY
CONCERN IS TRUTH - MY GOAL IS

By Arthur Weaver

Thank you!

Contact information:
Linda Reynolds
lreynolds@sfasu.edu
“That’s not a letter”: training students to recognize legal documents in manuscript collections

Jennifer McGillan
Coordinator of Manuscripts, Mississippi State University
Society of American Archivists Annual Meeting, August 2018

http://library.msstate.edu
• Students struggling or unable to read cursive, especially crabbed 19th century handwriting

• Compounded by lack of experience with the medium, or: they don’t recognize the format of legal documents, and so everything handwritten therefore becomes a “letter”

• Legal documents are thus potentially “lost” by being incorrectly or incompletely labeled during processing
Processing solutions

- Careful checks of student work by supervising archivists
- Teaching students to recognize legal documents even if they can’t necessarily read all of the text, and to glean important information, such as names, dates, and type of document
Basic document analysis

- Format check:
  - How is the text arranged on the page?
  - Is there a salutation?
  - Are any of the words in the text larger than other words around them?
  - Are there any unusual marks, i.e. large brackets, drawings, etc?
  - Is there any information on the back of the document that could help?
Basic Content Analysis

- Content check:
  - Identifying the court (Probate, Chancery, Orphans, etc)
  - Finding names of plaintiffs, defendants, judges and lawyers
  - Finding the location of the court (state, county, town)
  - Recognizing standard legal phrases and terms
Printed examples

• If you have them, printed examples that include standard legal language can be helpful.

• For example: this bill of sale for an enslaved woman named Fany from 1818, which includes standard phrases like “know all men by these presents” and “to have and to hold” (underlining added!)
• This Chancery Court document from 1803 features an especially dramatic rendering of the brackets around the names of plaintiffs and defendants.
Text interpretation problems

• This 1802 document, also from Chancery Court, has brackets which are more restrained.

• Other issues: 19th c. writing conventions, such as the use of the “long s,” which can be especially challenging for student readers.
• This Probate Court document, dated 1800, has brackets at the top which identify it as a court document, but the text contains a salutation, indicating it may be a letter.
Solution: check the back for a label!

• Content hint: check the outside of the document for more information!

• Terms of Art: “Letters of Administration” and other similar terms are legal terms with specific meaning, and should be recorded in full as part of the folder title
Some court documents don’t have brackets, such as this set of interrogatories from 1804.

There is a title, and the text is arranged as a numbered list.

The title helps with format but not content. Names are scattered throughout; have to skim entire document to see who signed it.
Some documents may include Latin terms unfamiliar to students.

For example: This return to the writ of *habeas corpus* (“produce the body”) issued by the court, regarding a young boy of color who had been indentured by his enslaved mother in order to free him.
Some witness statements include notes from lawyers with case and location information.

For example: this document, one of several submitted to the Natchez Mayor’s Court in 1806, regarding testimony in a suit about improprieties during a card game.
More on witness statements

- Some witness statements can be missing standard formatting, such as this document from 1805 concerning a man who presented false credentials to gain employment as a river boat man. It has no brackets or title but starts with “I hereby certify,” a clue that it is probably a legal document.
Recognizing land sale documents

- The fastest way to identify a document related to real estate: look for the cardinal directions or directional initials (NW, SW, SE, NE)
- The author of this document from Natchez in 1808 made the key terms larger than the rest of the text, making it easy to identify.
Source documents all from MSS 658
Dr. Todd A. Herring Collection

- Bill of Sale, Barryie to Benson, 1818
- Motion to dismiss an injunction, Surget v Calvert, Chancery Court, Natchez, 1803
- Request for order restraining waste of land, Nichols v Bolls, Chancery Court, Natchez, MS, c. 1802
- Response to a writ of *habeas corpus* for Hercules, indentured free boy of color, Circuit Court, Natchez, 1824
Source documents continued

- Savage v Connor, dispute over enslaved persons, Natchez, MS, 1795-1804
- Witness statement, Moore vs Wood, Mayor’s Court, 1808
- Witness statement, Nimmo vs Griffey, 1805
- Letters of Administration, Estate of James Giles, Probate Court, Natchez, MS, Judge Dunbar, 1800
- Indenture, Glassburn and Nessette to Packard, Natchez, 1808
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Questions?
Jennifer McGillan
Coordinator of Manuscripts
Mississippi State University
662 325 3071
jmcgillan@library.misstate.edu