

Ethical Issues and ARMA's Code of Professional Responsibility

One of the marks of a profession is a set of norms that define the core ethical values and responsibilities of its members. The most fundamental of these norms are often expressed in a code of ethics or professional conduct. ARMA has such a code, entitled "Code of Professional Responsibility", which can be easily located on its website at www.ARMA.org. This white paper takes excerpts from the Code and provides a brief commentary on them that is meant to elaborate on their ethical content.

Truth/Deception

"Support the creation, maintenance, and use of authentic, reliable, usable information and support the development and use of information systems that place a high priority on accuracy and integrity . . ."

Truth and deception are part of our everyday lives and are addressed in our common morality by the *principle of non-deception*. Truth is also the foundational principle of the records management profession. ARMA's Code of Professional Responsibility (the Code) places the creation and maintenance of ". . . authentic, reliable, usable information . . ." at the heart of records management. Truthful records are inextricably tied to the function of record keeping, so this principle's meaning and value should be clear to all records professionals. But business and governmental organizations face conflicting demands and have to make subtle judgments about when, for example, an omission or the use of selective information constitutes deception and when it does not. Understanding the rationale for truthfulness and its application in different organizational contexts is necessary if one is to fulfill the Code's fundamental duty of creating accurate and reliable records.

Confidentiality/Disclosure

"Maintain the confidentiality of privileged information."

Confidentiality is a common ethical requirement of various professions (e.g., law, medicine). Confidentiality involves the withholding or concealing of information from third parties. It is suspended or violated when information is disclosed to an (often) specified third party. An obligation of confidentiality arises when information is given to one party by another to carry out a specific purpose. This obligation gets its force from an underlying agreement that can be specific and explicit, or common and implicit (a kind of social contract). Confidentiality is also relational; that is, it involves a relation between parties. Violations of confidentiality are usually considered wrongful and often are illegal. ARMA's Code explicitly recognizes an obligation to maintain confidentiality. However, maintaining confidentiality is, in some sense, the keeping of secrets, and sometimes keeping secrets is not justifiable. Sometimes parties agree to keep information confidential that should not be concealed. Also, there are times when it is justifiable to blow the whistle on a wrongful activity and this might involve disclosing confidential information. Understanding the rationale for confidentiality and the limits of

confidentiality is important in order to satisfy the obligation to maintain confidentiality, while not violating other rules of ethics in the process.

Information Privacy

" . . . the right to privacy of all individuals must be both promoted and upheld."

Information privacy consists in having control over information about oneself, whether it exists in one's home or is stored in a database somewhere. It is one of the most pressing issues created by information technology. Concerns about information privacy arose in the 1970s in relation to the use of government database systems. Personal computers, the internet, and social computing have added new dimensions to these concerns. Loss of information privacy threatens a number of fundamental interests. These interests can be classified into three groups: Civil/political rights, economic and other material interests, and personal/social relationships. Violations of privacy can arise from a single disclosure or publication of a fact or from an accumulation of such disclosures overtime. As custodians of personal information and records, records and information professionals have a direct role to play in safeguarding personal information privacy. This responsibility is also recognized in the code. "The right to privacy of all individuals must be both promoted and upheld."

Whistle blowing

"Recognize illegal or unethical RIM-related actions and inform the client or employer of possible adverse consequences."

Whistle blowing refers to the situation in which an insider or member of an organization discloses to officials of the organization, the appropriate regulatory authorities, or the general public that the organization is committing a harmful, illegal, or unethical act or acts, and these acts are not widely known within the relevant context (i.e., internally or externally).

Whistleblowing presents itself in two ways to the records professional. First, because information professionals are exposed to a tremendous amount of information, there is a possibility that they will come across information that reveals illegal or wrongful actions. Also, they might witness illegal or wrongful actions taken with respect to information (e.g., falsification, destruction). For these reasons records and information professionals run a risk of finding themselves in the position of being would-be whistleblowers. This is not an easy position to be in, as whistleblowing brings serious adverse consequences to the whistleblower. Second, records professionals may be asked to play a role in establishing policies and procedures for a whistleblowing program, and they may be asked to play a role in maintaining the program, especially in relation to capturing records of reports made and actions taken. Knowledge of the conditions under which whistleblowing is considered ethically justifiable or obligatory will be helpful in addressing both sides of this issue.

Conflicts of Interest

"Avoid conflict of interest or improper gain at the expense of clients, employers, or co-workers."

Conflict of interest is an issue that arises for professionals because of the nature of professional work. (It also arises for public officials.) Professionals typically stand in a *fiduciary* relationship to certain parties. A fiduciary relationship is a relationship based in trust ('fides' is Latin for 'faith'), in which the fiduciary is given the responsibility to act on the other's behalf or interest in some specific area (e.g., financial, legal, or medical). Professionals play this role because of their expertise. Laypersons entrust them with protecting their interests because the professional is an expert in the specific area of interest.

Conflicts of interest can be understood against the backdrop of this fiduciary relationship. A conflict of interest exists for a person when he or she is in a fiduciary relationship with another party and must therefore exercise judgments on behalf (in the interest) of the other party, but the person has a special interest that would tend to interfere with the proper exercise of his or her judgment on behalf of that party. The conflicting interest is typically financial, though it can be broadly understood to include other personal interests. An example of a conflict of interest would be the case of a judge who is required to make a judgment in a civil suit between two companies, where the judge owns a significant number of shares in one of the companies.

The problem with conflicts of interest is that they call into the question the impartiality or reliability of the professional's judgment. This is especially true when the conflict is not disclosed. Having a conflict in and of itself is not necessarily wrong. The important question is how the conflict is addressed. Records and information professionals can find themselves in a conflict of interest insofar as they are the custodians of records for certain stakeholders and where they, the records managers, have an interest affected by the creation and handling of those records. Also, as with whistleblowing, this is a dual issue for records professionals. The reason is that preventing and addressing conflicts in an organizational setting requires extensive records keeping, and this, of course, is the job of records professionals.

Intellectual Property

"Recognize the need for careful action to assure appropriate access to information without violation of the intellectual property rights of the owners of that information."

Intellectual property is the idea that persons and organizations have property rights in certain kinds of creations of the mind. These creations can be ideas (patent) or the expression of ideas (copyright). Intellectual property is different from normal property. With normal property, if someone wrongly appropriates it, the owner is deprived of its use. With intellectual property, this does not happen. Because it is mental, it can be replicated or copied. Still, law and common morality recognize a right of the creator to benefit from his or her creations. The law attempts to balance and promote the interests of all stakeholders (creators, owners, and the public). There are different categories of intellectual property. Of particular relevance to records professionals are copyright and trade secrets. Understanding what is copyright protected and what is a trade secret, and understanding the rationale for why materials receive such

protections, is a responsibility that falls to records professionals. Further, in the case of copyright, understanding what constitutes a fair use of copyright materials is also important, especially when attempting to balance the interests of your stakeholders.

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