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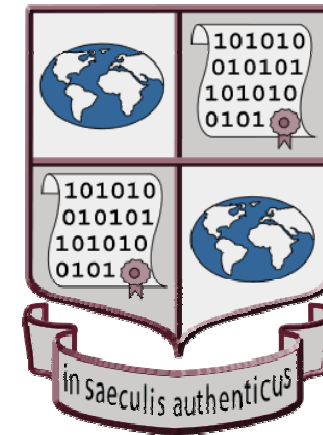
InterPARES project, UBC: Policy group

[www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)



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# Privacy: barriers to preservation of authentic digital records

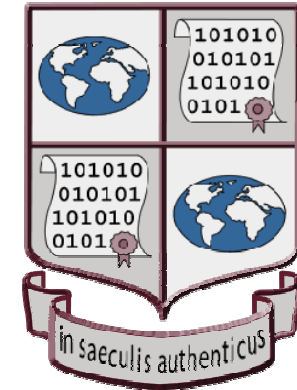


**DLM Budapest, 6<sup>th</sup> October 2005**  
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# IP2 Research



- **Authenticity [IP1]**
- **Archival science and diplomatic traditions**
- **Examining records from *dynamic, interactive* and *experiential* environments in eGovt, Arts and Sciences**
- **Interdisciplinary and multi-methodological**
- **Major funders: SSHRC (Can), NSF, NHPRC (USA)**



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# Policy group remit

- Policy framework comprising *policies, strategies and criteria*
- “*How to overcome barriers to preservation*”
- 5 studies: IPR / copyright
- File formats
- Archival legislation
- Authenticity [juridical studies]



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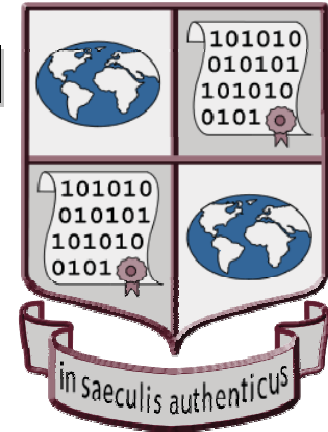
# Methods

Comparative study of regulatory / legal frameworks

Consideration of [conceptual] archival implications

Authenticity, the lifecycle / the records continuum in report feeding into policy framework

Other products: access management, papers.....





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# Contributions

Comparative regulatory study conducted in collaboration with Livia Iacovino, Monash University (EU, Aus, Can, US) submitted to *Archival Science*

- Contributions from T. Maxwell University of NY, Albany, US (also author of other papers *iaw IP2*)
- Hannelore Dekeyser (Univ. of Leuven)
- Maria Guercio (Urbino)
- Isabelle de Lamberterie (*Centre Nationale de la Recherche Scientifique*)
- Jane Morrison, University of British Columbia, Vancouver



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# Archival concepts paper

## Unusual approach to archival study on privacy

- (Submitted to *Archivaria*)
- Archival methods and theory uppermost
- Role of personal information in archival record[s]
- Lifecycle and continuum
- Empirical, juridical
- Postmodern philosophy: use of Derrida's *Mal d'archives*



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# Archival concepts paper

## **Most literature is social scientific / historical / archival**

- Archival issues normally discussed are access ethics, appraisal, effect of archives on society
- Extent of privacy as a postmodern proposition
- Derrida's *Mal d'archives*: 'contextualisation' = 'violence'
- Tentative mapping of p/m archival science to privacy agendas, rejection of more extreme Derridan approach





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# D Lifecycle M?

## Consider EC95/46 (& some EU member state enactments)

- [Almost] all are data controllers
- [Almost] everything is processing
- Many lifecycles or the continuum?  
[*Discuss.....*]
- Some enactments cut short some of these 'arrows'
- Requires concurrent, *not* consecutive management of privacy (Continuum or just early appraisal?)





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# Continuum?

Possibilities in a complex e-Government



MONASH University

environment like Australian HealthConnect

- **Research undertaken by Livia Iacovino (Journal of Law and Medicine, Australia)**
- **Parallels elsewhere in world, including EU / other sectors**
- **What is the record? [*Multiple possibilities, vs. typology*]**
- **How are the personal data / agents participating?**
- ***Who* has power in the records capture, management, correction / anonymisation, disposal process?**



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# Disclose or ‘process under conditions’?

## Definition of personal information varies

- Transfer to archives: a disclosure or an exemption?
- Archival access by researchers, ultimately cascading down to [unregulated] purely private research
- ?[narrow] scope for ethical access codes (Italy)
- Series of lifecycles or a continuum?

**Depends on how you look at it!**



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# Different perspectives

## Communities / sectors

- Conceptual analyses of authenticity, reliability, accuracy in Government, the Arts, the Sciences
- Mappings to archival and diplomatic science
- Authenticity derived from primary purpose is a pivot for the other uses
- Secondary purpose recognition (exceptions, exemptions) vary wildly



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# Different perspectives

Member state differences (EC not bothered on variations)

- ‘Absolute’ [discuss!] exemption for research, scientific and historical purposes
- Reliance on principle of ‘compatibility of purposes’? [worry about private archives]
- How does this work with DP principles: proportionality, fairness esp.?
- ECHR?



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# Archival perspectives

## Unchecked privacy agenda could undermine archive

- Window for appraisal narrowing, *effects* on creators...
- USA probably only[?] country where security culture strong enough decisively to maintain familiar lifecycle, sunset clause model



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# Archival perspectives

## Privacy agenda could undermine preservation

- *Requirement to anonymise?*
- FOIA tends to provoke / require privacy reaction
- Scope for ethical decision making on access by archivists narrowed to some *very* difficult issues:
  - application to dead [DP times out]?
  - DNA profiling, hereditary diseases? Harm...
- Right to information, right not to be harmed, explain!



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# Defining moments?

- Passenger name records controversy, 2004
- Safe haven judgements of extra-EU personal data protection
- s.29 working party: judgements on website
- Ranges far beyond its strict remit:
  - Also involves balance of security exchanges *outside* scope of DP directive
- National legislation too: Irish criminal records D/B..





## **Madrid / London bombings could see a security resurgence.....**

- Hoping for this too assiduously could undermine our digital trust, open access and governance agendas
- Waiting for caselaw in some areas.....
- UK: Durant vs. FSA: “biographical in nature”
- Identification / identity: transaction, records creation and management processes, interplay with content



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# Strategies

## **Need for archival and records professionals to have strategic alliances**

- Mutual understanding with other communities, e.g. social science, natural sciences
- Integration of archival with FOIA access regimes
- Resolution of some ambiguities.....
- Reiteration of role of archives and danger of archives without traces of plural humanity

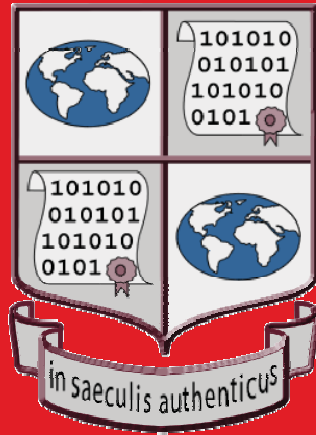


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## Further research / dissemination

### IP2 policy framework: principles and criteria

- More regulatory and other study by Livia Iacovino
- Possible to extrapolate “How not to enact the DP Directive.....”?, esp. for 2004 accession member states
- Published peer reviewed papers on way.....  
(Archival Science, Archivaria)



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<http://www.interpares.org>  
[www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)