



Information Policy of the Minnesota Historical Society

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I. Scope and Purpose

The Minnesota Historical Society (MNHS) is a non-profit cultural heritage institution not subject to the Minnesota Government Data Practices Act (Minnesota Statutes, Ch. 13). As set forth in this Policy, the presumption is that most information held by MNHS is and will be available to the public. When statutes or restrictions require that information be maintained as private, or when MNHS determines certain information should be private, select information may not be public information. In all aspects of this policy, MNHS balances operational efficiency and public transparency.

Section V. of this Policy details how members of the public may request information that has been collected, created, stored, and maintained as public by MNHS.

II. Definitions

Administrative records include MNHS records in any format that are created, collected, and maintained in the normal course of business. It broadly includes MNHS's internal records; however, it does not include MNHS's *collections* or *personnel records*, defined below.

Personnel records means records that are created, collected, and maintained for individuals who are or were employees, or similarly situated individuals (e.g., fellows, mentors, volunteers, interns, etc.). It includes records that exist primarily to document or administer their relationship to MNHS, and generally also includes such documents as application forms, performance evaluations, disciplinary actions, compensation history, and other records as defined by state law.

Private information means information collected, created or maintained by MNHS that is not made available to the public because of statute, restrictions, or determination by MNHS consistent with this Policy.

Records means information, data, and other documentary material in any format.

Collections means material that MNHS has collected, created, purchased, or received via donation or transfer with the intent of documenting, presenting, interpreting, preserving, and making available Minnesota history. Administrative and personnel records become part of MNHS collections if and when they are transferred to MNHS Institutional Archives, which is part of the MNHS collections.

State Archives records means government records that are transferred to MNHS pursuant to Minnesota Statutes, Ch. 138.17 subd. 1.

NAGPRA refers to the Native American Graves Protection and Repatriation Act, as codified in 25 U.S.C. § 3001 *et seq.*

III. Public Availability of Information by Type

A. MNHS Collections

MNHS, as part of its mission, collects and cares for material that documents human life in Minnesota. MNHS's *Collections Management Policy* guides the acquisition, use, loan, preservation, deaccession, and disposal of these collections. While collections are generally considered public information, access to certain collections and/or information within may be restricted, including:

1. Copyrighted material

Materials which may not be reproduced under federal copyright law.

2. Donations

Collections to which a donor may have restricted access as part of a negotiated agreement with MNHS. Donor restriction agreements may stipulate no access for a specified period of time, limited access, or selected access. MNHS further reserves the right to place such restrictions on collections or certain elements within collections even without a request by a donor. Restrictions will generally be lifted after an allotted period of time has passed. MNHS endeavors to keep the length of any restrictions as short as possible.

3. Endangered material

MNHS reserves the right to restrict access to or use of fragile or vulnerable materials if such use or access would endanger the materials themselves. MNHS does endeavor to provide alternative formats in such cases, such as digital surrogates or other reproductions. MNHS may also restrict the dissemination of certain information if such dissemination might jeopardize the security of historical resources.

4. Sensitive cultural collections

MNHS respects the special nature of funerary, sacred, and other highly sensitive cultural collections and may restrict access to or reproduction of such materials. Additionally, federal law imposes certain obligations on MNHS to safeguard culturally sensitive information under NAGPRA. Management of such collections is also guided by MNHS's *NAGPRA and Culturally Sensitive Objects Policy*.

5. State Archives

MNHS follows Minnesota Statutes, Ch. 138.17 subd. 1(c) relating to access to State Archives government records collections. Records collected by the State Archives are public except as provided for by Minnesota Statutes, Ch. 138.17 subd. 1(c).

6. MNHS Institutional Archives

MNHS records identified by curatorial staff as having permanent historical value are transferred to the MNHS Institutional Archives when no longer needed for routine purposes as guided by MNHS records retention schedules. Part of the MNHS collections, public access to the Institutional Archives is through the MNHS Library and follows Library procedures. As such, public access to MNHS Institutional Archives records may differ from public access to other MNHS records in active operational use.

B. Administrative Records

In most cases, information in records created, collected, and maintained by MNHS in its administrative records is available to the public, however certain exceptions apply, including:

1. Appraisal information

Estimated or appraised monetary value of MNHS real estate property is private information. If MNHS property is sold, the information becomes public upon the completion of the sale. Estimated or appraised monetary values of items in the MNHS's collections is private information. If items are deaccessioned and sold in accordance with MNHS's *Collections Management Policy*, the information becomes public upon the completion of the sale.

2. Trade secret, commercial, and proprietary information

Certain trade secret, commercial, and proprietary information (e.g., computer software

development, acquisition preparatory work, information relating to exhibit design techniques, etc.) is private information.

3. Development information

The names of donors to MNHS (financial and in-kind) are public information, unless anonymity is requested by the donor(s). Gift ranges of financial donations are public. Specific gift amounts, forms, payment schedules, and dates of gift are private information, unless approved by the donor. Information about past, current, and prospective donors, including correspondence, research, solicitation, proposals, negotiation documents, responses, and similar development information is private information.

4. Collection accession information

MNHS collection accession files document the acquisition and management of collections. Such files may contain private information, although names of collection donors are public unless a donor requests anonymity.

5. Loan information

MNHS may borrow items from individuals or other collecting organizations for exhibit and study. Information about items on loan to MNHS beyond name of item and dates of loan may be private information.

6. Meeting minutes

Meeting minutes are considered drafts until they have been approved by the appropriate body. Draft minutes of meetings are private information. Once minutes are approved by the appropriate body, they are public.

Meeting packet exhibits for MNHS Executive Council (governing board) meetings and board committee meetings are public unless designated as private information. MNHS board-designated executive session notes and minutes are private information.

7. Reports

Final reports approved by the Director of MNHS and not otherwise considered confidential under this Policy are public. Notes and preliminary drafts of reports created, collected, and maintained are private.

8. Notes, internal correspondence, and communications in any form

Unless MNHS determines there is a privacy concern or other significant interest that requires restricted access, MNHS correspondence with third parties is public. Notes, internal correspondence, and other communications in any form maintained by MNHS

employees, volunteers, interns, and similarly situated individuals as part of their job-related duties which are not otherwise disclosed outside of MNHS are private information.

9. Financial information

MNHS's financial information is generally considered public unless release of certain information would be in violation of donor and other agreements, in which case such information is considered private. Any identifying, private personnel information contained in otherwise public financial information shall be redacted before such information is made available to the public.

Executed contracts are presumed to be public information unless otherwise restricted by the terms of the contract (e.g., requests for donor anonymity). To the extent that a contract that is otherwise public contains information that is private, such private information shall be redacted before the contract is made available to the public. Bid materials submitted in response to Requests for Proposals are private until the contract is formally awarded, whereupon all submitted bid materials except bidder-designated trade secret information become public. MNHS does not accept copyright-restricted bid materials.

Completed audits of MNHS's finances by the Legislative Auditor and other auditing firms are public information.

10. Research fellowships and other competitive programs

Information maintained for the administration of research fellowships and other competitive programs is generally considered public. To the extent that otherwise public information contains private information, such private information shall be redacted before the information is made available to the public.

Materials prepared as part of a decision-making process are private. MNHS may share information pertaining to applications with individuals who are assisting with the decision-making process. These individuals may not further disseminate any private information they review.

11. Grants to external organizations

Information used in MNHS's grant program for external organizations is considered public, with the exception of trade secrets and location information of sensitive historical resources. To the extent that otherwise public information contains private information, such private information shall be redacted before the information is made available to

the public. Applications, grant agreements, and final reports/products are private until they have been fully evaluated and formally acted upon as follows:

a. Applications. Upon MNHS receipt of an application, the name of the applicant, the project title, the historic resource affected, and the dollar amount requested is considered public information. Applications are considered private until they have been approved or denied by the appropriate body.

MNHS may share information pertaining to applications with individuals who are assisting in the evaluation and review process. These individuals may not further disseminate the private information they review. Individual reviews of such applications are private. Once MNHS has formally acted upon an application, aggregate reviews are public, with identifying information of the reviewers redacted.

MNHS may share information pertaining to applications with individuals who contract with MNHS to prepare reports. These individuals may not further disseminate private information they receive. The report may include aggregate data related to otherwise private information.

b. Grant Agreements. The terms of grant agreements are considered private until an agreement has been fully executed by all parties to the agreement. Fully executed grant agreements are considered public. Until a grant agreement is fully executed and made available to the public, to the extent that a grant agreement or related record that is otherwise public contains information deemed to be a trade secret or location of sensitive historical resources, such information shall be redacted.

c. Final Reports and Products. Notes, interim reports, and preliminary drafts of reports created, collected, and maintained are private. Approved final reports and products are public, with the exception of trade secrets and location information of sensitive historical resources, which will be redacted.

12. Library information

Personal information received from Library users is private. MNHS protects a Library user's right to privacy with respect to resources consulted, and information sought or received. Call slips and other records connecting the name of a Library user to the materials they request are private.

13. Security information

If disclosure of information might substantially jeopardize the security of collections, information, individuals, technology resources, or property against theft, tampering, improper use, illegal disclosure, trespass, or physical injury, it will be treated as private information.

14. Location of sensitive historic resources

MNHS may redact information about the location, character, or ownership of historic resources if MNHS determines the disclosure may cause a significant invasion of privacy, a risk of harm to the historic resource, or otherwise impede the use of a traditional religious site by practitioners.

15. Third party materials

With the exception of information contained in grants as referenced above, records created and maintained by a third party and shared with MNHS in the course of an advisory or consultative relationship are only considered public with the permission and consent of the third party and at the discretion of MNHS.

16. State budget and policy process materials

Information submitted to the Executive Branch becomes public as determined by appropriate state statute. Notes and preliminary drafts, including documents, reports, proposals, and other materials created or collected by MNHS as part of the legislative or budget process are private information.

17. NAGPRA repatriation materials

Under NAGPRA, MNHS has a duty to care for, safeguard, and preserve any human remains or cultural items in its custody or in its possession or control. This includes obtaining free, prior, and informed consent from lineal descendants, Indian Tribes, or Native Hawaiian organizations prior to allowing any access to research on human remains or cultural items. Research includes, but is not limited to, studies, analyses, examinations, or other means of acquiring or preserving information about human remains or cultural items.

Materials related to in-progress claims for repatriation under NAGPRA are private. This includes such records as: correspondence with lineal descendants, Indian Tribes, or Native Hawaiian organizations; claims for repatriation; research and studies regarding claims for repatriation; letters of support for claims for repatriation; and any other written document or record submitted as part of claims for repatriation.

Once a claim for repatriation has been finalized as approved or denied, including physical transfer of the items, information related to the request is public as outlined in

other sections of this policy and with the exception of culturally sensitive information as limited by applicable laws. This may require MNHS to seek consent from lineal descendants, Indian Tribes, or Native Hawaiian organizations prior to providing any materials as part of a claim for repatriation. MNHS may choose, however, in its discretion, to redact any culturally sensitive information, contact information, or other sensitive information from any document or record provided to a requestor under this Policy.

18. Information requests

Submitted information requests are public with the exception of the requestor's name and contact details once the information request has been fulfilled or denied. New requests identical in scope to previous requests will be independently evaluated and may, if fulfilled, include different responsive materials.

C. Personnel records

With regard to personnel records, MNHS appropriately balances public accountability and individual privacy interests. MNHS's response to requests for personnel information is dictated by federal and state laws and will be guided by Executive Council-approved policies.

IV. Reservation of Rights

MNHS reserves the right, in its sole discretion, to decide to release otherwise private information in unusual circumstances, and to decide not to release otherwise public information. The following are examples, but not an exhaustive list, of such circumstances:

1. Compliance with law

MNHS will not release records or information if such release would violate state or federal law or a court order. If the release of information is the subject of a filed or pending action for a court order prohibiting its release, no release shall occur until such action is resolved.

2. Court orders and subpoenas

MNHS may seek legal advice regarding compliance before acting upon any received court orders, subpoenas, or search warrants, but will comply with court orders, subpoenas, and warrants to the extent required by law.

3. Privacy rights

Access to certain records may be denied if MNHS determines that such access might potentially and unreasonably violate a right to privacy or other significant interest of an

individual or organization. This includes culturally sensitive information as discussed in this Policy and MNHS's *NAGPRA and Culturally Sensitive Objects Policy*.

4. Privileged records

MNHS reserves the right to deny access to information that MNHS or its legal counsel determines is protected by attorney-client privilege, work product doctrine, or other applicable privilege. MNHS does not intend that this Policy provide an alternative to civil discovery, and expects adverse parties to obtain information in connection with disputed matters through the formal discovery process in such instances.

A. No contract rights established

This Policy is intended to facilitate public access to MNHS information. It is not intended to create a contractual right to information, or any other contractual rights, for the public or for MNHS employees, volunteers, interns, or similarly situated individuals. It is not intended to create employment rights or alter the employment relationship of MNHS employees.

B. Termination or amendment of policy

MNHS reserves the right to amend or terminate this Policy, as it deems appropriate, at any time.

C. Conflicts in policy

To the extent any conflict arises in application of this Policy such that information sought could be construed as both public and private, MNHS may determine, consistent with this Policy, whether information should be maintained as public or private.

V. Access

MNHS will provide members of the public accessibility to information held by MNHS as appropriate under this Policy.

A. Requests for Information

Information requests can be directed by email to informationrequest@mnhs.org. To assist in the handling of requests, those making requests should be as specific as possible regarding the information sought. The requesting party will be typically be notified of approval or denial within 30 calendar days.

B. Approval

If an information request is approved, fulfillment may take longer than 30 days depending on the scope of the request. Requested information will ordinarily be provided in its original format. The requested information can be viewed free of charge at the MNHS History Center

during public business hours with prior arrangement. If copies are requested, the requesting party will be responsible for any and all costs incurred by MNHS in meeting said request, including duplication costs, as well as the cost of employee time for activities such as locating, copying, and transmitting the information.

C. Denial

If an information request is denied, the requesting party may make a formal appeal in writing to the Director of MNHS for review of that decision within 30 calendar days of notice of the denial. The Director will generally respond within 30 days.

1. Denial of access to MNHS information

The Director's decision about the accessibility of information may be further appealed to the MNHS Executive Council. Such appeal must be in writing and must be submitted within 30 calendar days of the Director's decision. The Executive Council, or the Executive Committee acting under its authority on the Executive Council's behalf, will consider the appeal. The President of the Executive Council will determine the process for considering such an appeal. Decisions of the Executive Council will generally be issued within 120 calendar days of receipt of a complete and timely written appeal. Decisions of the Executive Council are final.

2. Denial of access to information on sensitive historic resources

The Director's decision related to the accessibility of information on the location of historic resources (see Section III.B.14 of this Policy) is final.

3. Denial of access to State Archives collections

Persons denied access to State Archives collections under Minnesota Statutes Ch. 138.17 subd. 1(c) may appeal the decision in writing to the State Archivist. Decisions of the State Archivist may be appealed to the MNHS Executive Council within 30 calendar days of the State Archivist's denial notice being sent. Within 30 calendar days of the receipt of such an appeal, the Executive Council shall issue a decision determining if the standards of the statute have been correctly applied. The decision of the Executive Council may be appealed to the District Court of Ramsey County per Minnesota Statutes Ch. 138.17 subd. 1(c)a.

D. Questions

Questions about the MNHS Information Policy, including the procedure for submitting information requests, should be directed to informationrequest@mnhs.org. Questions will be acknowledged and generally answered within 10 business days.