

**Do the right thing!**  
**Records Managers and Ethics**

ARMA Wyoming  
12 February 2004  
Alan A. Andolsen CMC CRM

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**Topics**

- **Sources**
- **Approaches**
- **Dilemmas**
- **Application**

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**Sources**

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**Sources**

- **US - Anderson/Enron**
- **US - Sarbanes-Oxley**
- **Australia - Heiner**
- **Canada - Tainted Blood**

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**Approaches**

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**Divisions**

- **Metaethics**
- **Normative**
- **Applied**

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Divisions

- **Metaethics**  
Where ethical principles have their source[s] and How they are explained.

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Divisions

- **Normative Ethics**  
Defines moral standards or guidelines That regulate right and wrong conduct

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Divisions

- **Applied Ethics**  
Uses metaethics and normative ethics To examine specific controversial issues  
Animal Rights, Environmental Concerns, or Nuclear War

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Types

- **Business Ethics**
  - Rules
  - Outcomes
  - Character
  - Stories

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Rule-Based

- **Deontological**
  - ΔΕΟΥ = duty
  - Rules or principles
  - Immanuel Kant
  - Ronald Green

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Outcome-Based

- **Utilitarianism**
  - Consequences
  - Promote Happiness
  - John Stuart Mill
  - Jeremy Bentham

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### Character-Based

- **Virtue**
  - Emphasis on Habits
  - Arise from Society
  - Plato/Aristotle
  - Alasdair MacIntyre

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### Story-Based

- **Narrative**
  - Reflection/Witness
  - Tell/Hear
  - Bible
  - Stanley Hauerwas

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### RM Virtues

- **Honesty**
- **Integrity**
- **Trust**

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### Dilemmas

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### Dilemma 1

- **Retrievals**
  - FOIA Request
  - Specific Items Defined
  - More Exist
  - May Be Problematic

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### Dilemma 2

- **Education**
  - New Division – Poor RM
  - Restricted Resources
  - Resistant General Manager
  - Action Required?

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**Dilemma 3**

- **Inventory**
  - Drop a File
  - Problem Document
  - Regulatory Issue
  - Substantial Financial Impact

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**Application**

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**Approach**

- **Clear Statement**
  - Facts
  - Affected Parties
  - Ethical Issues

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**Ethical Key**

- **Moral Imagination**
  - Competing Alternatives
  - Correct Judgment[s]
  - Right Choice[s]

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**Dilemma Analysis 1**

- **FOIA Retrievals**
  - Specific Items Requested
  - More Exist/Problematic
  - Ethical Issue[s]
  - Options/Action

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**Dilemma Analysis 1**

- **FOIA Retrievals**
  - Ethical Issue[s]
    - Rules
    - Character
  - Options/Action

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## Dilemma Analysis 2

### • Education

- New Division – Poor RM
- Restricted Resources
- Ethical Issue[s]
- Options/Action

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## Dilemma Analysis 2

### • Education

- Ethical Issue[s]
- Character
- Duty
- Options/Action

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## Dilemma Analysis 3

### • Inventory

- Drop a File
- Find Problem Document
- Ethical Issue[s]
- Options/Action

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## Dilemma Analysis 3

### • Inventory

- Ethical Issue[s]
- Rules
- Outcomes
- Options/Action

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## Question

**Would I want to see  
My action[s]  
Published  
On the front page  
of ....????**

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## Codes of Ethics

### ICRM

[www.icrm.org/ethics.html](http://www.icrm.org/ethics.html)

### ARMA

[www.arma.org/publications/ethics.cfm](http://www.arma.org/publications/ethics.cfm)

### SAA

[www.archivists.org/governance/handbook/app\\_ethics.asp](http://www.archivists.org/governance/handbook/app_ethics.asp)

### AMCF

[www.amcf.org/memEthics.html](http://www.amcf.org/memEthics.html)

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**Who knows? ...**  
**Records Managers and Privacy**

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**Sources**

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**Sources**

- **World War II/Cold War**
- **Data Protection Act**
- **Marketing Databases**
- **Financial Disclosures**

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**Definitions**

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**Privacy**

**Privacy is a Social Contract**

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**Privacy**

- **Social Contract that balances**
  - **Individual's right to keep information from being known.**
  - **Benefits society receives from sharing that information.**

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**Confidentiality**

**Assurance that only properly authorized persons can view particular information.**

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**Legislation**

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**Legislation**

- **HIPAA**
  - Health
  - Information
  - Portability and
  - Accountability
  - Act

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**Legislation**

- **HIPAA**
  - 1996 [42 USC 1320d ff]
  - Federal Register: 1997
  - Review Period: 1998-2000
  - 2000: [45 CFR 160 & 164]
  - Effective: 26 February 2001 & Following

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**HIPAA**

- **Regulations**
  - Standards for Privacy of Individually Identifiable Health Information
  - 45 CFR 160 and 164

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**HIPAA**

- **Complex and lengthy rules on handling of all patient information for “covered entities.”**
- **Preempts state laws but only as a “floor” - states can impose additional requirements.**

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## HIPAA

- **Protects health information from unlawful access.**
- **Restricts use and disclosure of health information - minimum disclosure.**
- **Establishes penalties for wrongful behavior.**

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## Financial Privacy

### Gramm Leach Bliley

**Financial Services Modernization Act**

- **Privacy Policy**
- **Opt-Out**
- **Enforcement Authority**

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## Digital Records

### E-Government Act of 2002

**Section 208 - 44 USC 36**

- **Privacy Impact Assessment**
- **Policy Publication [WEB SITE]**
  - **Consent**
  - **Rights**
- **Compliance Reporting**

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## Digital Records

### COPPA

**Children's Online Privacy Protection Act**

- **Info Collection Practices Published**
- **Verifiable Parental Consent [<13]**
- **Parental Access**

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## Wyoming

### State Statutes [35 Items]

- **Tax**
- **Criminal Procedures**
- **Hospital/Medical**
- **Public Records**
- **Parentage & Children**

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## EU Data Protection

### Data Protection Directive

- **1974/October 1995/October 1998**
- **Transparency [Who, What & Why]**
- **Control over Use**
- **Adequate Level of Data Protection**

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**EU Data Protection**

- **Adequate Protection**
- **Independent Enforcement**
- **Compensation from Courts**
- **'Core' Principles**
- **All: Manual to On Line**

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**EU Data Protection**

**Restrictions [Article 8]**

- **Health**
- **Race or Ethnicity**
- **Politics or Religion**
- **No Secondary Use**

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**EU Data Protection**

**US Response - 1998**

- **'Safe Harbor' Approach**
- **Voluntary**
- **Principles: notice, choice, onward transfer, access, security, data integrity, enforcement**

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**Restrictions**

**Uniting and Strengthening America  
By Providing Appropriate Tools  
Required To  
Intercept and Obstruct Terrorism Act**

**USA PATRIOT Act – 26 October 2001**

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**Implications**

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**Notice**

**Components**

- **Existence**
- **Collection Scope**
- **Ownership**

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## Choice

- **Alternatives**
  - Clearly Explained
  - Consequences
  - Opt- In v Opt-Out
  - Action[s] Required

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## Onward Transfer

- **Acknowledgement**
  - FOIA Retrievals
  - Archives
  - Marketing
  - Bankruptcy

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## Access & Security

- **Participants**
  - Confidentiality
  - Authorization
  - Safeguards
  - Audits

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## Integrity

- **Process**
  - Review Possible
    - All Items
    - Mandatory v Voluntary
    - Linked to Use
  - Correction Process
  - Validation

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## Enforcement

- **Options**
  - Internal
  - External
    - Voluntary
    - Adversarial
  - Notification

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## Resources

- **Federal Regulations**  
<http://www.gpoaccess.gov/ecfr>
- **European Union**  
<http://europa.eu.int>  
<http://www.export.gov/safeharbor/SafeHarborInfo.htm>
- **Privacy**  
<http://www.epic.org>

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# Who Are You Today?

## Records and Identity Theft

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# Sources

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## Sources

- Automation
- Technology
- Internet

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## Wyoming - 2003

- 33% - Credit Card Fraud
- 21% - Phone or Utilities Fraud
- 16% - Bank Fraud
- 9% - Employment Fraud
- 8% - Gov't Documents/Benefits
- 5% - Loan Fraud

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# Definitions

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## Identity Theft

### Components

- Personal Identifying Information
- Use for Unlawful Purpose
- Without Consent

Wyoming 6-3-901 – Misdemeanor/Felony - \$500

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## Personal Identifying Info

- Name
- Address
- Telephone
- SSN
- DMV Number
- Employee ID No
- Mother's Maiden Name
- Demand Deposit Acct No
- Savings Acct No
- Credit Card No

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## Legislation

**Whoever knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit ... an unlawful activity that constitutes a violation of federal law, or that constitutes a felony under any applicable state or local law.**

Identity Theft and Assumption Deterrence Act of 1998 – USC 1028

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## Legislation

- **2003 Additions**
  - Credit Reports
  - Fraud Alerts
  - Record Sharing
  - Notification[s]
  - Confirmation

Fair & Accurate Credit Transactions Act

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# Dangers

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## Dangers

- **Information obtained by:**
  - stealing records from employers,
  - bribing employees who have access to the records, or
  - hacking into the organization's computers.

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## Dangers

**Information obtained by:**

- Dumpster diving: rummaging through personal trash, or the trash of businesses or public dumps
- Abusing their employer's authorized access to credit reports or
- Posing as a landlord, employer, or someone else who may have a legal right to the information.

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## Dangers

### Information obtained by:

- **Skimming:** stealing credit and debit card numbers as cards are processed by using a storage device.
- Stealing wallets and purses containing IDs and credit and bank cards.
- Stealing mail, including bank and credit card statements, pre-approved credit offers, new checks, or tax information.

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## Dangers

### Information obtained by:

- Completing a "change of address form" to divert your mail to another location.
- Stealing personal information from your home.
- Posing as a legitimate business person or government official.

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## Outcome

### Results of Identity Theft:

- Spending sprees using credit/debit card numbers for "big-ticket" items.
- Opening new credit card accounts and not paying the bills with the delinquent account reported on victim's credit report.
- Changing the mailing address on your credit card account so fraudulent bills are being sent to the new address.

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## Outcome

### Results of Identity Theft:

- Take out auto loans in victim's name.
- Establish phone or wireless service in the victim's name.
- Counterfeit checks or debit cards, and drain your bank account.

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## Outcome

### Results of Identity Theft:

- Open a bank account in your name and write bad checks on that account.
- File for bankruptcy under victim's name to avoid paying debts or to avoid eviction.
- Give victim's name to the police during an arrest.

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## Safeguards

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## Safeguards

### Basic Protection

- **Passwords**
  - Bank Accounts
  - Credit/Debit Cards
  - Make Them REAL!
- **Secure Personal Information**
  - Home
  - Work [Audit Accuracy/Security]

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## Safeguards

- **Release Information ONLY**
  - When You Initiate Contact or to
  - Persons You Trust
- **Guard Mail & Trash**
  - Outgoing, Vacations, etc.
  - Shred

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## Safeguards

- **Question Use/Security**
- **Don't Use SSN/DMV**
- **If SSN Required:**
  - Why Do You Need It?
  - How Will It Be Used?
  - How Is It Protected?
  - What If It Is Not Given?

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## Safeguards

- **Computers**
  - Virus Updates
  - Secure Browser ['Lock']/Firewall
  - "Strong" Passwords
  - Privacy Policies
  - Disposal – Wipe Hard Drive
  - No Unknown Hyperlinks

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## Safeguards

- **Free Utilities**
  - Cleanit – Clears all caches
  - Workstation Locker – Lock after a time
  - ZoneAlarm – Firewall
  - PopUp Blocker – No pop up ads
  - Spybot/Adware – Deletes spyware
  - AVG AntiVirus

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## Safeguards

### Phishing

- Requests to "update" or to "validate" billing info
  - Do not reply or click on the link in the email.
  - Contact the company using known phone number or web site.
- Avoid e-mailing personal and financial information.
- Review credit card/bank statements for unauthorized charges.

Report suspicious activity to the FTC.  
Send the actual spam to [uce@ftc.gov](mailto:uce@ftc.gov).

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## Actions

### •If you are a victim:

- Contact the fraud department of a major credit bureau [Equifax, Experian, TransUnion] to place a fraud alert on your credit file.
- Close accounts that have been tampered or opened fraudulently.
- Use the ID Theft Affidavit when disputing new unauthorized accounts.
- File a police report. Submit a copy to creditors and others that may require proof of the crime.
- File a complaint with the FTC.

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## Resources

### Identity Theft Resource Center

<http://www.idtheftcenter.org/index.shtml>

### FTC Theft Affidavit

<http://www.ftc.gov/bcp/online/pubs/credit/affidavit.pdf>

### Privacy Rights Clearinghouse

<http://www.privacyrights.org/identity.htm>

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## Contact

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