Securing Police Archives
A Guide for Practitioners

Trudy Huskamp Peterson

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Abstract/Zusammenfassung/Résumé

Archives of security forces, in particular of the police, play an important role in dealing with the past processes. Examples from many different contexts have shown that police archives form an important basis for judicial processes, truth finding mechanisms, reparation programs and reforms of the security sector. However, since police archives contain sensitive information, in particular with regard to criminal prosecutions, they are consistently under threat. Many records have been destroyed, altered, stolen or remain inaccessible for transitional justice mechanisms, such as tribunals, truth commissions or reparation programs.

Therefore, it is extremely important to secure those police archives of repressive regimes that still exist and are still accessible, and to consider transfer of custody as soon as possible to a place where they remain open for transitional justice institutions, victims and researchers. This paper aims at guiding practitioners and policy makers on how best do so.

Archive von Sicherheitskräften, insbesondere Polizeiarchive, spielen in Prozessen zur Aufarbeitung der Vergangenheit eine zentrale Rolle. Beispiele aus verschiedenen Kontexten haben gezeigt, dass sie eine wichtige Grundlage für Strafprozesse, Wahrheitskommissionen, Wiedergutmachungsprogramme und Reformen des Sicherheitsapparates bilden. Da Polizeiarchive repressiver Regime nicht selten hochsensible Informationen beinhalten, die insbesondere in Strafverfahren verwendet werden, sind sie besonders gefährdet. Es erstaunt daher nicht, dass Unterlagen von Polizeiarchiven zerstört, verfälscht und gestohlen wurden oder für Wahrheitskommissionen und Strafgerichte unzugänglich blieben.

Im Rahmen der Vergangenheitsarbeit und Transitionsjustiz ist es daher besonders wichtig, dass Polizeiarchive, die noch existieren und zugänglich sind, geschützt und an einem sicheren Ort gelagert werden, wo sie Institutionen der Vergangenheitsarbeit, Opfern und der Forschung offen stehen. Dieses Paper soll Praktikern und Entscheidungsträgern einen Leitfaden zum Schutz von Polizeiarchiven bieten.

Les archives des forces de sécurité, spécialement de la police, jouent un rôle primordial dans des processus de traitement du passé. De nombreux exemples de contextes différents montrent que ces archives forment la base pour des procès juridiques, des commissions de vérité, des programmes de réparation et des réformes institutionnelles. Or comme ces archives contiennent régulièrement des informations sensibles, elles sont souvent en danger. Beaucoup de documents sont détruits, falsifiés et volés ou restent inaccessibles aux institutions de justice transitionnelle telles que des tribunaux ou des commissions de vérité.

Il est donc extrêmement important que de telles archives soient sécurisées et transférées à un lieu ou elles demeurent accessibles à la justice transitionnelle, aux victimes et à la recherche. Cet article permet de guider les praticiens et responsables politiques dans ces questions.

1 Introduction

Revolutionaries target police archives, whether in Egypt or Lithuania. The old regime knows this, and its officials may try to hastily destroy the police archives.[1] Often, however, there is not enough time for the officials to complete the destruction, leaving behind valuable information for future research use.

In transitional situations, it is important for the new authorities to take immediate steps to secure the police archives. These steps should include taking custody, authorizing a specific body to control the archives, permitting professional description of the contents of the archives, adopting a clear policy on access to the archives, and establishing an access regime.

Because police have on-going functions that require access to their previous records, such as the records of traffic violations, personnel and medical files of employees, and records of permits and licenses issued, it is essential that the new authorities accommodate the regular, non-political use of the pertinent files by the police while simultaneously protecting the files from harm.

This report describes the major steps necessary for the securing of police archives, with special consideration of the use of the archives in dealing with the past and transitional justice processes. It is intended primarily for use by officials in a government that succeeds a repressive regime and civil society organizations that seek to preserve police archives.[2]

2 Transferring custody

The essential first step is to transfer the custody of the police archives to a responsible new body. Three authorities can order the transfer of custody: the head of government, the legislative body, or a court. For example, when the East German regime collapsed, the German legislature passed a law creating the institution of the Federal Commissioner for the records of the state security service of the former German Democratic Republic, the entity that now manages the archives of the secret police (known as the Stasi).[3]

Box 1. Guatemala Transfers Custody

When Guatemala's human rights ombudsman (Defensor del Pueblo) discovered the records of the National Police of Guatemala *(Policía Nacional de Guatemala)* from the period of the armed conflict in Guatemala, he applied to a court for a protective order, requiring the police to preserve the records for the purpose of investigation into possible human rights abuses. The court ordered the preservation, and the human rights ombudsman was able to describe and use the archives. Later, the vice president of Guatemala sent a letter to the *Ministerio de Gobernación* (the ministry responsible for the police), ordering the transfer of the police records to the national archives/ministry of culture *(Ministerio de Cultura y Deportes);* both ministries ignored it. It took a legislative act to enforce the transfer of custody.

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[1] For Egypt see for instance AL-MASRY Al-Youm, *Investigations: State Security head ordered records destroyed*, in: Egypt Independent, 28 6 2012. http://www.egyptindependent.com/node/951196. For Lithuania see MISIUNAS Romuald J., *The archives of the Lithuanian KGB*, in: Berichte des Bundesinstituts für ostwissenschaftliche und internationale Studien, 1994.

[2] For additional information about procedures as well as descriptions of police archives in various countries, see GONZALEZ-QUINTANA Antonio, *The Management of the Archives of the State Security Services of Former Repressive Regimes*, UNESCO and the International Council on Archives (ICA) 2009, http://www.ica.org/download.php?id=971 (cited as GONZALEZ, Archives of State Security Services). OHCHR, Report of the Office of the United Nations High Commissioner for Human Rights on the seminar on experiences of archives as a means to guarantee the right to the truth, A/HRC/17/21 2011, http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-21.pdf).

[3] Bundesbeauftragter für die Unterlagen des Staatssicherheitsdienstes der ehemaligen Deutschen Demokratischen Republik (BStU) *(Federal Commissioner for the records of the state security service of the former German Democratic Republic):* http://www.bstu.bund.de/.

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As the Guatemala[4] example in box 1 suggests, enforcement of the decision is crucial, and the body to which the authority is transferred must be able to take control swiftly.

3   Taking control

Several possibilities exist for the new custodian of the police archives: the national archives, a special temporary body, or a non-archival government body.

The national archives is the obvious permanent home for the police archives, and in many countries the existing legislation on national archives requires the records of the ministries to be transferred to archival custody. In Latvia[5], Ukraine[6], and Spain[7], for example, the police records were sent directly to the national archives. The practical problem with this option is that the national archives may not have the space for the volume of police archives and may have little experience with managing contemporary investigative material. One solution to the space problem is for the national archives to take over the current storage area where the police archives are located and to operate it as a facility of the national archives.[8] In this case the national archives needs to make sure that the external storage location meets archival standards in terms of accessibility, preservation conditions (control of humidity, air conditioning), and in particular safety and security. Skills for managing police archives can be gained through training and consulting others who have faced a similar situation. However, the larger issue here is whether the national archival institution is sufficiently reformed from its operation under the previous regime and independent enough of political pressure to be considered by the public as a trustworthy custodian of the police archives.

Another option is to create an intermediate custodian within the government to manage the records for a designated period while initial processing and use is underway and then transfer the records to the national archives. This is the German model where the Stasi records, currently in a special government structure, will ultimately be transferred to the custody of the German national archives.[9] An intermediate custodian has both advantages and disadvantages. As a new entity, it will be seen as a new, reputable custodian not a refitted one, and the persons appointed to lead it can be selected from persons known to be free of entanglement in the abuses of the previous system. However, establishing a new entity may take time and always costs money: staff, space, equipment,

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[4] For further information on the National Police Historical Archive of Guatemala *(Archivo Histórico de la Policia Nacional*, AHPN) see: http://archivohistoricopn.org/. The AHPN is presently under the direction of the *Archivo General de Centroamérica* (AGCA), Guatemala's national archive. The AHPN comprises 8,000 linear meters of archival records and represent the largest single repository of records ever made available to human rights investigators. See also: Doyle Kate, *The Atrocity Files. Deciphering the Archives of Guatemala's Dirty War*, in: Harper's Magazine, 2007, p. 52-64. http://www.gwu.edu/~nsarchiv/guatemala/police/harpers.pdf.

[5] A translation of the Latvian Law on Archives is available on the website of the National Archives of Latvia: http://www.arhivi.lv/index.php?&1168.

[6] The records of the Security Service of Ukraine have been transferred to the State Archives of the Ukraine by a state decree in 1991. Archives of Ukraine, No 3 (254) 2004: http://www.archives.gov.ua/Publicat/AU/ or http://www.ica.org/download.php?id=1924.

[7] Gonzalez, Archives of State Security Services, pp. 53 and 104 (op. cit. 2). See also: *Archivo Histórico Nacional*: http://www.mcu.es/archivos/MC/AHN/index.html; González Quintana Antonio, *El archivo de la Guerra Civil de Salamanca*, in: Historia 16, no. 230, June 1995, pp. 12-26; Centro Documental de la Memoria Histórica: http://www.mcu.es/archivos/MC/AGC/index.html.

[8] This is the case in Guatemala, where the AHPN is physically located in the buildings of the former National Police but at an administrative level forms part of the National Archives of Guatemala *(Archivo General de Centroamérica* – AGCA).

[9] The German Act regarding the records of the State Security Service of the former German Democratic Republic *(Stasi-Unterlagen-Gesetz - StUG)* of 20 December 1991 (cited as: Stasi Records Act) indicates in Article 40 (Measures to Safeguard Records), para. 2, lit. 3: "After the expiration of the retention period, the documents developed from the documentation are to be offered to the Federal Archive according to Article 2 Paragraph 1 of the Federal Archive Act". www.bstu.bund.de/.

and administrative support. And the new staff members are not likely to have experience in handling any archives, meaning that the training required will be extensive.

A third option is to transfer the custody to an existing, non-archival government institution such as a human rights commission or ombuds-person or the ministry of justice. Assuming that the nation's archives law covers this institution, the police records will eventually go to the national archives after a period in the custody of

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Box 2. Paraguay: Transfer of custody to an existing, non-archival institution

The archives of Paraguay's former Political Police are held in the *Centro de documentación y archivo para la defensa de los derechos humanos* (CdyA) at the High Court of Justice in Asunción, Paraguay. The collection consists of documents of the Paraguayan Police during the Stroessner period (1954-1989), including documents related to Operation Condor, a secret agreement on co-operation between the security forces of at least five Latin American military dictatorships.
See: http://www.unesco.org/webworld/paraguay/about.html and http://www.aladin0.wrlc.org/gsdl/collect/terror/terror_e.shtml.

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the government entity. The same problems of experience, space and funding arise when depositing the records with a government body as with a deposit with a temporary body. The larger problem here is that the existing body already has a mission, and adding the management of the large and controversial police archives to it will divert staff members from carrying out their core mission and may well overwhelm them.

Whichever option is selected, the authorities, responsibilities and duration of custody must be clearly and publicly stated and the records must be accessible for transitional justice and dealing with the past purposes. The issue of access to the records will be discussed in Section IX below.

4   Protecting the archives

As soon as the body to control the archives is designated, the new custodial authority must establish protection for the records and the facility. This includes the physical integrity of the building (remarkably many buildings where records are stored have poor roofs, missing or broken windows, and leaking overhead pipes) and the control over entrances and exits from the building. The new authority must obtain, often by contracting outside the government, a reliable guard force to be on the premises every day around the clock. Intrusion alarms and fire and smoke alarms need to be installed and, if not already in place, fire suppression equipment, ranging from hand-held fire extinguishers to automated systems. Records sitting on the floor need to be raised to avoid dirt and possible floods, preferably onto shelves but at least onto pallets. Rodents and other vermin need to be eliminated. Electrical systems need to be checked for old or defective wiring that could start a fire. The computers used to store the electronic records of the police need to be shielded from hacking by outside sources and duplicates of the data need to be made as soon as possible.

Duplicate copies of all electronic records, both those created by the police and scanned copies made for security purposes by the archives, should be stored in a geographically different location that does not share the same disaster threats or security risks as the location of the police archives.[10]

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[10] Based on an agreement between the Swiss and the Guatemalan Government, the Swiss Federal Archives (SFA) maintains a backup of all digitized records of the AHPN. At frequent intervals, the AHPN sends an updated backup of the records to the SFA.

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Box 3. Digital Storing and Preservation

An online tutorial on digital preservation, developed by specialists at Cornell University, is available at http://www.dpworkshop.org/dpm-eng/oldmedia/threats.html

Training materials for general management of electronic records are provided by the International Records Management Trust at http://irmt.org/education-and-training/education-and-training-2

A fundamental discussion of digital storage, including the recommendation for storage in more than one location, is the report "Preserving Digital Storage" available at http://www.clir.org/pubs/reports/pub63watersgarrett.pdf

The International Standards Organization's *ISO 16363:2012* gives guidance for assessing the trustworthiness of digital repositories. The final draft of the standard, *CCSDS 652.0-M-1 -- Audit and Certification of Trustworthy Digital Repositories,* is freely available at http://public.ccsds.org/publications/archive/652x0m1.pdf

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5 Understanding the organization of the police

Like all government bodies, a police force creates records as it carries out its functions. To understand the records of the police it is necessary to understand (1) the organization of the police and how it changed over time; and (2) the functions assigned to the police, which unit was responsible for each function, and how those assignments changed over time.

At the most basic level, a police department has a headquarters and police stations. It may also have one or more intermediate levels between headquarters and the station. It is also possible that the stations in the capital city are managed differently from stations around the country; for example, the stations in the capital city may report directly to the police headquarters although the stations around the country may report to an intermediate office. And this organization may change over time, as the complexity of responsibilities of the police department and its power relationship to other government bodies, particularly the military services, changes.

The functions of the police are typically:

- Responding to crime (including responding to complaints and requests for assistance)
- Investigating crime
- Managing evidence, fingerprints, criminal history information
- Analyzing evidence in police laboratories
- Handling juvenile offenders
- Controlling vehicular traffic

Police departments in some countries are also responsible for a variety of other functions, such as:

- Operating jails
- Operating a police hospital
- Issuing permits and licenses (such as licenses for firearms)
- Providing national identity cards

To carry out all those functions, specialized police units are dedicated to:

- Central direction

- General administration (budget, finance, purchasing, personnel, property management, vehicle fleet maintenance)
- Radio and communications networks
- Public relations
- Training
- Liaison, national and international, with other security forces
- Internal investigation and audit

Some of these functions, like responding to requests for assistance, are handled by units in stations as well as in headquarters, while others (for example, laboratories, fingerprint registry, training) are solely headquarters units.

Box 4. Understanding the organization of the police

The National Police Historical Archive of Guatemala *(Archivo Histórico de la Policía Nacional* - AHPN) conducted a number of studies on the structure and functioning of the National Police in Guatemala. For instance: *Del Silencio a la Memoria. Revelaciones del Archivo Histórico de la Policía Nacional*, Archivo Histórico de la Policía Nacional, Guatemala 2011.

The Federal Commissioner for the Records of the Stasi published a manual to facilitate the understanding of the Stasi organization that was elaborated within a research project: BStU, *Anatomie der Staatssicherheit. Geschichte, Struktur und Methoden* - MfS-Handbuch, Berlin 2009).

While the broad outlines of the organization and functions of the police are probably known to the general public, the details of daily operations are not. Police organizations are normally rigidly hierarchical, with reports flowing up and orders flowing down. The horizontal relationships between police bodies vary, however; it is not possible to guess how much one police department shared with another department at the same hierarchical level. Furthermore, it is also important to understand the relationships between police units and non-police bodies because the records should reflect these relationships, too.[11]

A priority activity for the new custodian is researching the organization and history of the police. The police itself may have written a history that can be used as a starting point; the police probably have a master set of general orders that will include orders on internal reorganizations; an internal police newspaper may contain information on the organization.

Even a preliminary sketch or organization chart is helpful in identifying the units of the police and, therefore, the units where records were created. If they are willing to discuss the organization, interviews with former police officials can also provide important information.

6 Understanding how the police kept their records

The key to organizing archives is to know the structure of the organization that created the records. The basic principle of archives is that records of one organization that created and maintained records in the conduct of business must not be mingled with the records of any other organization that separately created and maintained its records. This is known as the principle of provenance.

A second basic principle is to respect the original arrangement that the creating office gave to the records. For example, if a body of records is in chronological order and there is an alphabetical card index to it, leaving the chronological file intact means that the card index can be used to find the

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[11] Mawby, Robert I., Policing Across The World: Issues For The Twenty-First Century, Taylor & Francis 1999; Bayley, David, Patterns of Policing: A Comparative International Analysis, Rutgers University Press 1990.

particular item that is wanted. Leaving the records in the original order shows the relationships of the records, one to another; it may provide significant evidence of how the file was accumulated and used; and it permits the use of any existing finding aids.

Police record keeping systems tend to change very slowly. Even if a particular police unit is renamed or its reporting relationship is changed, the kind of records it creates as it carries out its functions mostly stay the same. For example, daily reports and monthly reports, logs of weapons checked out and checked in, arrest orders and arrest reports, fingerprint systems: all these are very consistent over time. Understanding the system of record keeping in one decade probably can provide a good map to record keeping practices thirty years later.

Central file rooms exist as usual police practice. But even if the police headquarters or stations had a central file room, some units probably filed separately because their work either did not affect other units or was considered too secret for central filing. For example, the records of the fingerprint identification division are usually separate, as are the records of the investigative division and the records of the chief of police, although some copies of these records may be filed within the central files.

In other words, in the headquarters and stations a number of bodies of records were created and maintained separately, one from another. These records were created and used by a particular unit of the police in the course of that unit's activities and functions. Applying the archival principle of provenance to these records means keeping these bodies of records separate, one from another, and, as far as is possible, keeping them in the order that the unit maintained them. Each of these bodies of records will be described separately as records of headquarters unit X or police station Y. Until the records are carefully examined and the organization of the police is understood, the archivists will not know how many units with separate files existed and therefore how many separate archival descriptions will be needed.

7 Understanding the physical types of police records

Police archives contain records in a wide variety of physical formats. All physical types contain important evidence that may be used in transitional justice processes.

Paper. The police records of the twentieth century are primarily paper. They may be loose (unbound), logbooks and other bound volumes, index cards and fingerprint cards. The loose records may be in file folders, binders, tied in bundles, or exist simply as stacks of paper. The records in logbooks are usually handwritten; the unbound records are generally typed; index cards and fingerprint cards can be either typed or handwritten.

Microforms. In the last half of the twentieth century, police departments, overwhelmed by the volume of paper records they had, sometimes chose to convert the paper to microfilm or microfiche and then throw away the paper. Other departments filmed, then stored but did not destroy the paper. Researchers discovering microforms among police records need to determine whether the images duplicate existing paper items or are unique documentation. If the images are unique documentation, they will need archival description just as if they were the original paper files that were filmed.

Still photographs. Police departments routinely photograph persons arrested. These photos may appear on index cards, in case files and in photo albums maintained by the unit responsible for taking the photographs. Photographs of crime scenes may be stored in case files relating to the investigation of the crime; surveillance photographs may exist. Departments have photographs of the members of the police force, again on index cards or in personnel files or in albums. Photographs of crime scenes may be in case files relating to the investigation of the crime, and surveillance pho-

tographs may exist. Finally, police departments usually have photographs of police activities such as graduations from police academies, police ceremonies and social events, and formal meetings such as with visiting police officials from other countries.[12]

Sound recordings and videotapes. Police monitor radio and television broadcasts; they also record interrogations. They may have monitoring devices in residences and businesses and on telephones. Some police departments transcribe the recordings and dispose of the original tapes; others maintain both; some transcribe only some recordings and may or may not keep the recordings, whether or not transcribed.[13]

Electronic. During the last quarter of the twentieth century, police departments around the globe embraced computer technology. Used initially for managing large databases, the computer quickly replaced the index cards that had maintained a record of persons of interest to the police, whether perpetrators, suspects, victims, witnesses, persons filing complaints, or persons whose names arose in the course of an investigation. Other uses for the computer soon followed, and today computer records are essential to modern policing. A great variety of computer storage devices (tapes, disks of various sizes, flash drives), including obsolete formats, exist in police archives. While some can still be read, others will require specialized assistance to extract the information on them.

Printed materials. The police produce their own publications, such as training materials and police bulletins. They also are likely to hold copies of government newspapers and other official government issuances.

Evidence. Professional practice is to hold evidence in separate "evidence rooms" or storage places (vehicles taken into custody are in designated parking lots); however, sometimes evidence is found within case files. While evidential materials are often objects (weapons, for example), other evidence may be books and letters and photographs and archives seized during raids or taken from persons arrested. Evidence may be held locally or may be held in one or more central locations. Logs of evidence should exist.

8 Arranging and describing police records

The purpose of describing archives is to gain intellectual control over the records. That control is established by describing what the records are about (the contents of the information in the records) and who created them. Once intellectual control is established, researchers can find their way to the records that are most likely to provide the answers to the questions the researchers are asking. Description is a crucially important part of any archival enterprise.

It is essential that the order transferring the custody of the police archives states clearly that the new custodian has the right to arrange and describe the records. If the order for transfer is moving slowly, the proposed custodian could seek a court order naming a group of persons as "special masters" of the court for the purpose of describing the existing records and reporting back to the court. This would, at a minimum, provide knowledge of what records exist.

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[12] The AHPN contains numerous photographic records: https://ahpn.lib.utexas.edu/home. Examples in the publication show how victims were identified by the National Police through photos taken, for instance, during political demonstrations (e.g., the identification of student leader Oliverio Castañeda de León). See AHPN, *Del Silencio a la Memoria. Revelaciones del Archivo Histórico de la Policía Nacional*, Volumen 1, Guatemala 2011, pp. 403 ff.

[13] The archives of the DIPBA (Dirección de Inteligencia de la Policía de la Provincia de Buenos Aires) contains 750 VHS video tapes and 160 audio tapes of the DIPBA with information related to serious human rights violations committed by the police (see: http://www.comisionporlamemoria.org). The archives are extensively used by the truth commission of the province (Comisión Provincial por la Memoria) as well as by judicial authorities investigating the crimes committed during Argentina's military regime. A special team of archivists work with judicial authorities, and documents from the archives were essential evidence in several prosecutions (http://www.comisionporlamemoria.org/archivo/?page_id=8).

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International standards exist for describing archives. One standard, the International Standard for Archival Description General (ISAD-G)[14], is for describing the contents of the records. Another standard, the International Standard Archival Authority Record (ISAAR), is for describing the organizational unit that created the records.[15] A guide to using the ISAD-G for describing human rights archives can be found on the ICA website.[16]

Box 5. Summary of the basic arrangement and description approach

1. If the headquarters or the station operated central file rooms for certain types of records, keep the central files together and describe them as the records in the central file room.

2. If a police unit maintained its own files, separate from the central file room and separate from those of any other police unit, maintain the unit's records separately and describe them separately.

3. Within each body of records, look for the original order of the records and preserve it if possible.

4. Use the international standards for description.

5. Prepare a manual of arrangement and description procedures.

6. Train staff in basic procedures outlined in the processing manual.

7. Test the plan of arrangement and description through a pilot project on one station and one headquarters unit.

8. Survey the records in order to set priorities and develop a work plan.

Descriptions of records can be as short or long as the archival custodian wants. Often a chronological file will be described simply as a chronological file - it is not helpful to list months and years over and over again. On the other hand, a set of case files organized by name or number or code needs a list of file titles to be useful. If the file titles themselves are a code, the list can be annotated to unscramble the information of the title.

As archival work begins, it will be necessary to have a set of basic instructions for the processing staff to use. This usually takes the form of a processing manual. That manual is continually updated as more is learned about the records. It should include the basic arrangement principles, the description standards, and any local rules on description. The manual is an essential tool for training staff members.

9 Preparing for reference service

The purpose of arranging and describing records is to make them available for research use.

A full discussion of the issues involved in making records available, a process usually called reference service, is beyond the scope of this report.[17] What follows are some basic issues that must be considered before reference service begins.

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[14] International Council on Archives, *General International Standard Archival Description*, Second edition, ICA 2011, http://www.ica.org/download.php?id=1687.

[15] International Standard Archival Authority Record for Corporate Bodies, Persons and Families, 2nd Edition, ICA 2011 (http://www.ica.org/download.php?id=1648).

[16] HUSKAMP PETERSON Trudy, *Application of ISAD(G) for Human Rights Archives*, ICA 2012, http://icarchives.webbler.co.uk/13758/standards/application-of-isadg-for-human-rights-archives.html.

[17] Archives are used extensively by transitional justice mechanisms. For a discussion of the uses of archives (including police archives) in prosecution, vetting, truth-seeking and reparations, see: HUSKAMP PETERSON Trudy, *Archives against Amnesia*, in: Politorbis, No 50, 3/2010, p. 123-131. http://www.eda.admin.ch/eda/fr/home/doc/publi/ppol/polit.html

9.1 Access policy

The first step toward reference service is to determine the policy for access, that is, which records will be available for use by whom. If the access policy has not been established by law, an authoritative body governing the police archives, such as an advisory board, must establish the access policy. The policy should refer to the *Joinet Principles against Impunity*[18] and the *Updated Set of Principles against Impunity* of the United Nations Commission on Human Rights, adopted in 1997 and updated in 2005,[19] and the *Principles of Access to Archives* adopted by the International Council on Archives (ICA) in 2012.[20] The basic considerations in developing an access policy for police records are issues of privacy, personnel matters, and current national security.[21]

Both the UN and the ICA Principles underline the importance of access to archives for victims and their relatives to claim their rights, for persons implicated who request information for their defense, and for historical research. Building on the UN foundation, Principle 6 of the ICA "Principles of Access to Archives" states, "institutions holding archives ensure that victims of serious crimes under international law have access to archives that provide evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public."[22]

9.2 Principle of equal access

The access policy should be tailored to different categories of users, such as use by the government for current business, use by the ombudsman, use by victims or heirs of victims or persons acting for them, and use by the general research public.[23] Once those categories are established, the access rules should apply equally to all persons within that category. The general access policy should be published so that persons seeking access will know what rules apply to their requests.[24]

9.3 Screening under the access policy

Before a file or document is made available for research use, the archivists must decide whether *this* material can be made available to *this* user in accordance with the access policy.

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[18] UN Document E/CN.4/Sub.2/1997/20/Rev.1, 2 October 1997, The Administration of Justice and the Human Rights of Detainees. Question of the impunity of perpetrators of human rights violations (civil and political). Revised final report prepared by Louis Joinet pursuant to Sub-Commission decision 1996/119. http://www.unhchr.ch/Huridocda/Huridoca.nsf/%28Symbol%29/E.CN.4.Sub.2.1997.20.En?Opendocument (cited as Joinet Principles against Impunity).

[19] The Joinet Principles against Impunity were up-dated by Diane Orentlicher in 2005: UN Document E/CN.4/2005/102/Add.1, Report of Diane Orentlicher, independent expert to update the Set of principles to combat impunity - Updated Set of principles for the protection and promotion of human rights through action to combat impunity http://ap.ohchr.org/documents/alldocs.aspx?doc_id=10800. (cited as: Updated Set of Principles against Impunity).

[20] The ICA Principles of Access to Archives are accompanied by a Technical Report that contains a Sample Access Policy for an Archival Institution. http://www.ica.org/13619/toolkits-guides-manuals-and-guidelines/draft-principles-of-access-to-archives.html.

[21] See as an example the Stasi Records Act (op. cit. 9).

[22] ICA Principles of Access to Archives, Principle 6 (p. 10, op. cit. 20).

[23] Principle 5 of the ICA Principles of Access to Archives, states, "Archives are made available on fair and equal terms." (p. 9, op. cit. 20). Part Three of the Stasi Records Act defines the following categories of persons who have a right to disclosure of certain information from the archives: data subjects, third parties, employees and beneficiaries of the State Security Service, including near relatives of missing and deceased persons as well as courts and public prosecutors (Stasi Records Act, Articles 12 to 18, op. cit. 9).

[24] Principle 2 of the ICA Principles of Access to Archives states, "Institutions holding archives make known the existence of the archives, including the existence of closed materials, and disclose the existence of restrictions that affect access to the archives" and "institutions that give the public access to any part of their archives publish an access policy." (p. 8, op. cit. 20).

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General approaches. Archives use two different approaches to reviewing records. One is to review an entire series of records under the criteria used for release to the general public. This review is completed whether or not there is a specific request for the series of records. The archivists make a judgment about the level of review required under the policy, complete the review, and put the released records in one part of the storage area and put the withheld records in a separate area; if the records are electronic, the released items are copied to a separate part of the computer system. The other approach is to wait until a researcher requests a set of files and review them at that time. This directly links research interest with the review process and eliminates the review of records for which there are no immediate research needs.

Either approach will work, and it is possible to use them both: review completely those series of records that the archivists know will be of immediate research interest to users and put aside other series until there are specific requests.

Screening on demand. When a request is received for access to records that are not public, the archivist determines whether the requester is eligible for access under an exception to a restriction stated in the access policy; for example, a person seeking information about himself or a family member, a person seeking access to prepare a defense, or a person representing an investigating authority. Persons seeking such access must provide credentials that are sufficient to permit the archives to determine whether the person qualifies for the exception. If the person does not, then the records are screened in accordance with the criteria for release to the general public.

After determining the access status of the requester, archivists begin a review of the closed materials. While some police files can be scanned quickly (for example, those of a police training academy), others require close reading. Police records sometimes do not name an individual but do provide enough information that the person can be identified (for example, a reference to "the woman who lived next to the church and did laundry for the priest") and it is important to identify those specific references as well as proper names.

When information that must continue to be restricted is identified, archivists ensure that the restriction is limited to the minimum necessary information to protect the matter. Principle 8 of the ICA *Principles of Access to Archives* states, "Partial release of archives is a means to provide access when the entire file or item cannot be released. If an archival item contains sensitive information in a few sentences or a limited number of pages, that information is removed and the remainder of the item released for public access. To the greatest extent practicable, archivists do not refuse to redact archives because of the labor required to make redactions; however, if redaction makes the requested item or file misleading or unintelligible, archivists do not redact and the material remains closed."[25]

Because the records of the police contain extremely sensitive information, it is essential to have a good, detailed manual on the process to be used in reviewing records and to train all staff members conducting the review.

Staffing. Selecting the staff members who will comprise the review team is an important management decision. Some archives hire staff members - archivists, general staff, lawyers - for the specific purpose of conducting review. Other archives will take one or more members of the existing staff, move them to the work of access review, supplement them with specialists (such as lawyers), and hire new people to replace them in the previous posts. Either pattern will work.

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[25] Redaction is the process of masking or removing sensitive information in a document before releasing it for use. Information about techniques for redacting records is found in the Technical Report accompanying the Principles of Access to Archives (op. cit. 20).

Archivists and lawyers must work together on the policy and process of review. All staff members who review records must be detail-oriented persons who understand the general access rules and can apply them to specific records. They must be employees who can be trusted not to transmit information obtained from restricted records except as required in the course of their official duties. A recommended archival practice is to have the initial review done by a staff member who may or may not be an archivist and a second review handled by an archivist. If an advisory panel has been established (see IX.F below), the archives may refer difficult decisions to it and also may ask it to review training materials developed by the archives. Professional archivists usually handle review for release to victims, consulting with the archives' lawyers as necessary; the archives' lawyers should provide training on the issues to be considered during review of records relating to victims. Final copying and redaction can be done by general staff members and reviewed by archivists.

9.4 Notification to researchers

When records, whether single items or whole files, are withheld from researchers, the researchers must be notified that something has been withdrawn. This is accomplished by putting notices in the file at the place where the records were withdrawn. Withdrawals are also noted in the description of the records that is made available to the public.[26]

9.5 Right to reply to the record

Police records contain information that is incorrect, whether the information was a mistake or a deliberate falsification. An individual who gains access to records relating to him/herself and finds false information should have the possibility, in accordance with Principle 17 of the UN *Updated Set of Principles against Impunity*, "to challenge the validity of the information concerning them by exercising a right of reply." Principle 6 of the ICA *Principles of Access to Archives*, following this UN statement, says that the individual may "challenge the validity of the information by submitting to the archival institution a statement that will be made available by the archivists whenever the file containing the name is requested for research use."[27]

9.6 Advisory panel

An advisory panel for the police archives is very desirable. It is especially useful in the area of access, where the panel can establish the general access policy, review specific access questions referred to it by the archivists, and handle appeals made by researchers who have been denied access by the archival staff. Additionally, the advisory panel might help select the order in which the bodies of records are arranged and described. It could also give advice on which bodies of records should be duplicated and which have the highest priority for duplication.

Box 6. Examples of advisory panels

The AHPN in Guatemala has a national *(Consejo Consultivo Nacional)* and an international advisory panel *(Consejo Consultivo internacional)*. The national panel advises the AHPN on long-term strategies, archival and research issues and on political initiatives. It is composed of professors of history, sociology and political science, of human rights defenders, a Maya representative, a forensic anthropologist and a psychologist. The international advisory panel supports the AHPN in being part of an international network of similar archives, as well as in

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[26] Principle 2 of the ICA Principles of Access to Archives states "Users have the right to know whether or not a specific series, file, item or portion of an item exists, even though it is withheld from use, or if it has been destroyed." (p. 8, op. cit. 20).

[27] Updated Set of Principles against Impunity, Principle 17 (op. cit. 19). ICA Principles of Access to Archives, Principle 6 (p. 10, op. cit. 20).

> strategic and political decisions. It consists of renowned experts, such as members of truth commissions, human rights lawyers, an archivist and a prosecutor.
>
> The German agency of the Federal Commissioner for the Stasi records (BStU) has a scientific consulting body *(Wissenschaftliches Beratungsgremium)* comprised of nine historians and scientists that supervises the research of the agency. It has also a political consulting council ("Beirat"), whose members represent the German Federal Parliament and the States of the former GDR.

Ideally, the advisory panel will include representatives of various groups with an interest in the records, such as a victims' rights group and an academic research institution. It might also include a member of the ombudsman's staff and a former member of the police force who could provide insight into the way the files were created and used.

10 Providing reference service

The institution having custody of the police archives should publish a statement of reference policy, answering the questions:

1. Who can do research?
2. What are the hours of service?
3. What services are available by mail?
4. When can originals be used and when must copies be used?

Archives usually provide four types of reference service:

1. Furnishing information about the archives and its holdings
2. Furnishing information from the holdings (answering factual questions, orally or in writing, using information the staff finds by doing research in the documents on behalf of the requester)
3. Furnishing documents in the search room
4. Furnishing copies of documents (copied on paper, scanned, copied in audiovisual format, transmitted by mail or email, posted to a website)

Staff members providing reference service should be different persons from staff doing the original processing and staff doing access review. Again, a reference manual must be prepared giving the staff the procedures for handling all four types of reference service, and staff members must be trained on the procedures and policies.

In any archives, researchers will find surprises in the records, some pleasant and some painful, and the staff members must be prepared to respond to researchers who find unexpected information. In police archives the likelihood is high that some researchers will find very disturbing information in the records. Police archives should consider giving special training to reference service staff members to enable them to support researchers who become distressed.[28]

Box 7. Summary approach to access review and reference service

1. Adopt an access policy and publish it. Include the principles of equal access and notification of withholding.
2. Prepare an access manual.

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[28] In Guatemala, many family members of disappeared persons learned in the AHPN what had actually happened to their loved ones. See: *Del Silencio a la Memoria. Revelaciones del Archivo Histórico de la Policía Nacional*, Volumen 1, Guatemala 2011, in particular the illustrative cases from p. 371 onwards; http://archivohistoricopn.org/pages/investigacion.php#1.

3. Determine how to staff the access review; include lawyers in the process.
4. Train staff on access procedures.
5. Consider establishing an advisory board.
6. Adopt a reference service policy and publish it.
7. Prepare a reference manual.
8. Determine how to staff the reference service.
9. Train staff on reference procedures.

11 Outreach

Principle 3 of the ICA *Principles of Access to Archives* states, "Institutions holding archives adopt a pro-active approach to access."[29] With sensitive archives such as police archives, archivists must think carefully about the most appropriate means for making the public aware of the holdings of the archives and the ways in which they can be used. These may be through programs for the public, interviews on commercial media, educational projects, printed materials, and Internet and web-based publication of information about the archives or digitized images from the archives.[30]

12 Conclusion

The records accumulated by the police provide basic information on how the state operated; they provide information about people and places and events that have not yet been explained. They may be used to support dealing with the past mechanisms: helping to establish the truth of events, foster justice, guarantee non-recurrence, and bring about reparation. Research in police records can yield information that will support both the exercise of collective rights and the assertion of individual rights. They are enormously important sources.

Managing historic police records is both an opportunity and a challenge. It is an opportunity because the records of the police provide unparalleled evidence of the activity of a key government organization and can form the basis for serious societal processes to deal with a troubled or violent past. The challenge is to arrange and describe and provide access to this body of records in a way that is professional and sensitive to the rights and interests of the people whose lives are recorded in them.

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[29] ICA Principles of Access to Archives, Principle 3 (p. 8, op. cit. 20).

[30] See also GONZALEZ, Archives of State Security Services, Recommendation 13, p. 98, *op cit.* 2: "Awareness of those archives which witness the violation of human rights should be spread." The German Stasi Archives runs a special department of education and research ("BF - Bildung und Forschung"), which organizes regular exhibitions, educational events, aiming at different target publics: http://www.bstu.bund.de/DE/VeranstaltungenAusstellungen/_node.html. The AHNP in Guatemala runs a special dissemination department, the *Area de Difusión y Memoria Histórica:* http://archivohistoricopn.org/media/imagenes/Organigrama.pdf.

Annex - Archival provisions from the Updated Set of Principles against Impunity

In his influential 1997 report to the United Nations Commission on Human Rights on the question of impunity of perpetrators of human rights violations, the distinguished legal scholar Louis Joinet[31] proposed five principles on the "preservation of and access to archives bearing witness to violations."

Professor Diane Orentlicher updated the principles in 2005.[32] The following extract reproduces the updated provisions relating to archives.

II. THE RIGHT TO KNOW

A. General principles

PRINCIPLE 2. THE INALIENABLE RIGHT TO THE TRUTH

Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations of human rights, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations.

PRINCIPLE 3. THE DUTY TO PRESERVE MEMORY

A people's knowledge of the history of its oppression is part of its heritage and, as such, must be ensured by appropriate measures in fulfillment of the State's duty to preserve archives and other evidence concerning human rights violations and to facilitate knowledge of those violations. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments.

PRINCIPLE 4. THE VICTIMS' RIGHT TO KNOW

Irrespective of any legal proceedings, victims, their families and relatives have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victim's fate.

PRINCIPLE 5. GUARANTEES TO GIVE EFFECT TO THE RIGHT TO KNOW

States must take appropriate action, including measures necessary to ensure the independent and effective operation of the judiciary, to give effect to the right to know. Appropriate action to ensure this right may include non-judicial processes that complement the role of the judiciary. Societies that have experienced heinous crimes perpetrated on a massive or systematic basis may benefit in particular from the creation of a truth commission or other commission of inquiry to establish the facts surrounding those violations so that the truth may be ascertained and to prevent the disappearance of evidence. Regardless of whether a State establishes such a body, it must ensure the preservation of, and access to, archives concerning violations of human rights.

PRINCIPLE 14. MEASURES FOR THE PRESERVATION OF ARCHIVES

The right to know implies that archives should be preserved. Technical measures and penalties shall be applied to prevent any removal, destruction, concealment or falsification of archives, especially for the purpose of ensuring the impunity of perpetrators of violations of human rights and/or humanitarian law.

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[31] Joinet Louis, *Revised Final Report. Question of Impunity of Perpetrators of Human Rights Violations (Civil and Political). E/CN.4/Sub.2/1997.20/Rev.1, 1997-10-02;* New York: United Nations

[32] Diane Orentlicher, Revised final report prepared by Mr. Joinet pursuant to Sub-Commission decision 1996/119," United Nations Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1997/20/Rev.1, 1997-10-02; rev. by E/CN.4/2005/102 and E/CN.4/2005/102/Add.1, 8 February 2005.

PRINCIPLE 15. MEASURES FOR FACILITATING ACCESS TO ARCHIVES

Access to archives shall be facilitated in order to enable victims and persons related to claim their rights.

Access should also be facilitated, as necessary, for persons implicated, who request it for their defence.

Access to archives should also be facilitated in the interest of historical research, subject to reasonable restrictions aimed at safeguarding the privacy and security of victims and other individuals. Formal requirements governing access may not be used for purposes of censorship.

PRINCIPLE 16. COOPERATION BETWEEN ARCHIVE DEPARTMENTS AND THE COURTS AND NON-JUDICIAL COMMISSIONS OF INQUIRY

The courts and non-judicial commissions of inquiry, as well as the investigators reporting to them, must have access to relevant archives. This principle must be implemented in a manner that respects applicable privacy concerns, including in particular assurances of confidentiality provided to victims and other witnesses as a precondition of their testimony. Access may not be denied on grounds of national security unless, in exceptional circumstances, the restriction has been prescribed by law; the Government has demonstrated that the restriction is necessary in a democratic society to protect a legitimate national security interest; and the denial is subject to independent judicial review.

PRINCIPLE 17. SPECIFIC MEASURES RELATING TO ARCHIVES CONTAINING NAMES

(a) For the purposes of this principle, archives containing names shall be understood to be those archives containing information that make it possible, directly or indirectly, to identify the individuals to whom they relate;

(b) All persons shall be entitled to know whether their name appears in State archives and, if it does, by virtue of their right of access, to challenge the validity of the information concerning them by exercising a right of reply. The challenged document should include a cross-reference to the document challenging its validity and both must be made available together whenever the former is requested. Access o the files of commissions of inquiry must be balanced against the legitimate expectations of confidentiality of victims and other witnesses testifying on their behalf in accordance with principles 8(f) and 10(d).

PRINCIPLE 18. SPECIFIC MEASURES RELATED TO THE RESTORATION OF OR TRANSITION TO DEMOCRACY AND/OR PEACE

(a) Measures should be taken to place each archive centre under the responsibility of a specifically designated office;

(b) When inventorying and assessing the reliability of stored archives, special attention shall be given to archives relating to places of detention and other sites of serious violations of human rights and/or humanitarian law such as torture, in particular when the existence of such places was not officially recognized;

(c) Third countries shall be expected to cooperate with a view to communicating or restituting archives for the purpose of establishing the truth.

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