

When Public Identity Meets Personal Privacy: Ethical Considerations for the Use of Dates of Birth in Name Authority Records for Living Persons

The roots of authority control predate the modern understanding of privacy by almost half a century,¹ and thus early authority control took no heed of privacy considerations. This foundational independence of authority control from privacy considerations has persisted through the intervening century and a quarter to the present day.² However, if we wish to establish ethical practices of authority control, we must examine authority control from the ground up in the light of privacy because privacy ethics are an important part of ethical practice when dealing with personal information.

This chapter tackles one long-standing aspect of authority control: the use of birth dates in personal name authority records for living persons. After explaining the boundaries of this chapter and exploring the inherent tension between authority control and privacy, the chapter provides an overview of the current use of birth dates in personal name authority records and reflects on the privacy ethics at play. The chapter concludes with recommendations for ways we as catalogers can use birth dates in a more ethical manner.

Before proceeding, two limitations of this chapter need to be addressed. First, the boundaries of what is considered private are culturally defined.³ As a result, the discourse around privacy ethics depends heavily on cultural privacy norms and can therefore be difficult to

¹ Panizzi's "Rules for Compilation of the Catalogue" was published in 1841 and Cutter's *Rules for a Dictionary Catalog* was originally published in 1876, whereas the seminal article on privacy, Warren and Brandeis' "The Right to Privacy," was published in 1890.

² Some of the newer changes to authority control practice (such as RDA's introduction of gender as a recorded element) have been given privacy-based scrutiny by some in the library world, but the long-standing practices seem to have been taken as a given and thus never examined.

³ Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul, eds., *The Right to Privacy* (Cambridge, England: Cambridge University Press, 2000), 9, 42, 68, 203; Scott J. Shackelford, "Fragile Merchandise: A Comparative Analysis of the Privacy Rights for Public Figures," *American Business Law Journal* 49, no. 1 (2012): 135, doi:10.1111/j.1744-1714.2011.01129.x.

generalize, as each culture can and will have different boundaries for what is considered private. This chapter is written from the cultural perspective of the United States but will likely also find resonance among those in cultures with similar or stricter privacy norms.

Second, the ethics of privacy for the deceased is a complicated and contested issue.⁴ Legally, the dead do not have privacy rights.⁵ Most philosophical and ethical arguments for privacy require an agent who is capable of exerting active control over their personal information and capable of being harmed by a lack of such control. The dead inherently cannot exert active control, and the question of whether the dead can be harmed by a lack of privacy is a complicated philosophical question. Discussions of posthumous privacy also encounter the problem of how to handle situations where explicit directions or wishes are not known, which closely ties into the ethics of respecting the wishes of the deceased in general. These complications would require a chapter of their own to address properly; therefore, this chapter focuses exclusively on privacy for living persons.

Privacy, at its core, is the ability or right to control what, when, how, and to whom personal information is shared.⁶ This includes (at the extreme end) the ability to be anonymous, as well as the ability to be “pseudonymous,” that is, the ability to have a recognizable identity which is at the same time separate from the identity of your actual self. Full control of privacy

⁴ See, for instance, Antoon De Baets, “A Historian’s View on the Right to be Forgotten,” *International Review of Law, Computers & Technology* 30, no. 1 (Mar, 2016): 63; Natasha Chu, “Protecting Privacy After Death,” *Journal of International Human Rights* 13, no. 2 (2015); and T. M. Wilkinson, “Last Rights: The Ethics of Research on the Dead,” *Journal of Applied Philosophy* 19, no. 1 (2002).

⁵ L. Lee Byrd, “Privacy Rights of Entertainers and Other Celebrities: A Need for Change,” *University of Miami Entertainment & Sports Law Review* 5, no. 1 (April 1, 1988): 100-101, <http://repository.law.miami.edu/umeslr/vol5/iss1/6>; and Chu, “Protecting Privacy,” 269-270.

⁶ See, for instance, Louis Hodges, “The Journalist and Privacy,” *Journal of Mass Media Ethics* 9, no. 4 (1994): 198; Richard A. Glenn, *The Right to Privacy: Rights and Liberties under the Law* (Santa Barbara, CA: ABC-CLIO, 2003), 205; Raymond Wacks, *Privacy: A Very Short Introduction* (Oxford: Oxford University Press, 2010), 40-47; and Paul, Miller, and Paul, *The Right to Privacy*, 34. On the issue of whether privacy is a moral right, see Paul, Miller, and Paul, *The Right to Privacy*.

therefore allows an individual to obscure their identity as much or as little as desired. As a result, any ethic of privacy must afford the individual the power to control their own personal information and must not allow others to make decisions regarding that personal information without the individual's consent. The practice of authority control, on the other hand, involves identifying persons as fully and accurately as possible, in a way that links together all of their identities (including any pseudonymous identities). Authority control seeks to bring clarity and precision to issues of identity and is opposed to obscuration of information about persons, as obscurity can only lead to confusion over identities. As a result, privacy and authority control exist in a state of inherent tension, as authority control by nature seeks to expose that which privacy may wish to leave hidden.

Until now, authority control has dealt with this tension by operating as though privacy is not an issue—or at least by assuming that the information needs of the catalog user override almost any desire for privacy on the part of the subject of the authority record. The use of birth dates in personal name authority records is a case in point. The instructions for creating a personal name authority record states that if a birth date can be found from any (legal) source, then it should be included in the authority record.⁷ Additionally, once entered into a record, birth date information is never removed, although according to an anecdotal discussion on AUTOCAT, no subject of an authority record has ever requested that their date of birth be fully removed from their authority record.⁸ This default position of including birth dates no matter the source implicitly treats birth dates as public information and thus implies that any objections to their use is an unusual demand.

⁷ RDA Toolkit, 9.1.1, last modified April 11, 2017.

⁸ "Objection to author's birth year," emails sent to AUTOCAT email list, September 26, 2011-September 30, 2011.

However, birth dates, including just birth years, are held to be private information in the United States. This cultural norm of privacy revolves around two issues. First, birth dates are considered private because they reveal age, and age is considered a private matter, particularly in most professional contexts. Reflecting this, discussions on AUTOCAT suggest that the most common reason an individual requests that their birth date be removed from their authorized heading is because the individual is uncomfortable with their age being known in a professional context.⁹ Second, birth dates are considered private because they are a class of personally identifying information, which is legally and by definition personal. As awareness of the risk of identity theft has grown, the cultural norms regarding the privacy of personally identifying information, including birth dates, have tightened in response, and privacy has become inextricably tied to issues of information security. Information security recommendations advise keeping one's birth date as close to the vest as possible, only revealing it when absolutely necessary.¹⁰ Due to these two factors, birth dates are private information.

However, birth dates being private is not in and of itself enough to establish that authority control practices need to change. The issue of privacy for subjects of personal name authority records is complicated by the fact that those individuals are, to at least some degree, public figures, and public figures have more limited privacy rights than private individuals. Public figures do not give up all claim to privacy, though, so the question becomes one of where the balance point is between what becomes ethically available to the public and what remains purely private. The range of privacy afforded to public figures does vary according to the type of public

⁹ "Objection to author's birth year," February 15, 2008-February 22, 2008 and September 26, 2011-September 30, 2011; and "Personal info in authority records," emails sent to AUTOCAT email list, August 3, 2015-August 11, 2015.

¹⁰ See, for example, Frank W. Abagnale, *Stealing Your Life: The Ultimate Identity Theft Prevention Plan* (New York: Broadway Books, 2007), 109.

figure;¹¹ for instance, a politician, a local hero, and a celebrity each have different claims to privacy. I hold that all subjects of authority records are, for the purposes of those records, one of two types of public figure: a creator of media, or a person discussed in media. Further, I believe that these two categories of public figure should be afforded equal privacy. Therefore, I treat all subjects of authority records as having equal claim to privacy.

As no literature exists specifically addressing privacy as related to public figures in light of authority control, I approach the question by considering the standards of journalism ethics relating to privacy. Journalism privacy ethics focus on case-by-case analyses because journalists must consider each piece of information disclosed in each article they write in light of privacy, and the circumstances surrounding that use of information varies every time. In contrast, the circumstances and information involved in the use of birth names in authority records are essentially stable; as a result, I argue for a broad and generalized application of these principles to authority work, although individual catalogers could certainly perform their own analyses if desired.

In journalism, the primary question at stake is whether the informational needs of the reader outweigh the subject's desire for privacy.¹² This is weighed on whether the information is necessary for the stated purpose and provides information which the public needs to "live well"¹³ or to make their own (ethical) decisions¹⁴ and involves weighing the harms to the public of not releasing the information against the harm to the individual from having their privacy invaded.¹⁵

¹¹ See Hodges, "The Journalist and Privacy," 205-11; and Shackelford, "Fragile Merchandise," 144-51.

¹² See Hodges, "The Journalist and Privacy;" and Candace Cummins Gauthier, "Privacy Invasion by the News Media: Three Ethical Models," *Journal of Mass Media Ethics* 17, no. 1 (2002).

¹³ Hodges, "The Journalist and Privacy," 203-5.

¹⁴ Gauthier, "Privacy Invasion," 24.

¹⁵ *Ibid.*, 25.

Under this analysis, then, we must consider what the public gains from having birth dates in authority records, what the subjects of those records lose, and how the two compare.

Without birth dates, the public might lose some precision in authority control, meaning that some identities could be split across two or more unlinked records or separate identities with the same name could erroneously end up on the same record (although these scenarios are not a certainty; alternative methods for identification do exist). While such errors are clearly less than ideal, the consequences are also generally going to be minor: someone might be inconvenienced by wading through extra results or might not discover one of the books by the author they are looking up. On the whole, the impact on the public of keeping birth dates entirely private would likely be minimal, and any losses relatively small.

On the flip side, the impact on the subjects of the authority records could be greater. Some subjects of authority records could be particularly uncomfortable with having their age publically known, in which case the presence of their date of birth in the authority record could cause them distress, if they knew about it. More significantly, having their date of birth publically available puts the subjects of authority records at greater risk of identity theft. Some might object to this premise, claiming that having the date of birth exposed in an authority file provides little greater risk given all the other (not always legal) places such information can be found, or saying that if the date of birth is in the catalog record, it must already be public and therefore it does not matter if it is also publically in the authority record. To the first, I would respond that taking information security seriously has to start somewhere—if everyone continues to be lax because everyone else is also being lax, then we will never get anywhere and have no chance of ever stemming identity theft. As to the second, while in some cases the birth date is

already public, in many cases the information is provided to the cataloger by the publisher.¹⁶ Information coming from the publisher is not generally public; instead, the publisher is specifically revealing the date of birth to the cataloger, who then makes it public by adding it to the authority record. This means that the birth date may not, in fact, be publically available prior to the creation of the authority record. Thus, the subject risks having their birth date exposed when it may not have been previously, which represents a real, even if small, increase in their risk of having their identity stolen. In considering the needs of the public against the risks to the subjects of the authority records, the small but definitely present risks to the subject outweigh the potential small losses to the public and, therefore, an ethical authority control practice should treat birth dates as private information.

Given the privacy issues, it is worth considering whether birth dates are even necessary to meet the goals of authority control. Five features make date of birth attractive as a means of identification of persons for authority control. First, date of birth is generally¹⁷ factual. Second, date of birth is often relatively easy to ascertain for living people because of the option of contacting the individual to ask directly. Third, it is stable, meaning that it will stay the same from when it is first entered through the demise of the authority record. Fourth, it is unique enough to have high discriminatory ability; that is, a date of birth alone is usually enough to distinguish between two otherwise identical names (although it is possible for people with the same name to have the same birth date, so it is not perfect). Fifth, information about a range for

¹⁶ Among a convenience sample of 101 personal name authority records (collected while doing routine cataloging work) which contain either the full date of birth or solely the birth year, 55% had the birth date information provided by the publisher (63% from CIP information, 32% from direct inquiry, and 5% from the publisher's website), 19% of birth date information came from the subject of the record themselves (42% from direct inquiry, 32% from US copyright files, and 26% published either online or in a book), and the remaining 26% of records had copied the birth date from some other source of information such as Wikipedia.

¹⁷ Sometimes people give out a false date of birth, and occasionally the legal date of birth differs from the date the individual considers their actual date of birth.

date of birth can often be surmised from information in the material (for instance, a highly technical academic piece is unlikely to have been written by a 20-year-old), which means that date of birth can be of use to help distinguish names even if the precise date or year is not actually known by the user. As a result, birth dates work quite well as a means of identifying people.

Unfortunately, no other single element carries all of the advantages of birth dates, although RDA lists sixteen other elements for use in personal name authority records.¹⁸ Many of the elements, such as place of residence or field of activity, are subject to variation over time or to repeated changes. Other elements are more likely to be shared by people with the same name and thus of little use in distinguishing among them, such as gender or language. Most of the elements cannot be surmised, which means that if a user doesn't already know the information, it will not help them distinguish between the identities in the authority records. Additionally, many of these elements have privacy concerns of their own associated with them, meaning that they face much the same ethical issues as birth dates, particularly gender, place of birth, place of residence, address, and biographical information. As a result, the use of birth dates still stands out as a uniquely powerful method of identification and differentiation, and, for that reason, I do not recommend completely dropping its use.

I do recommend placing more emphasis on using those alternate means for differentiating names, though. Under AACR2, date of birth was prescribed as the primary means of differentiating names,¹⁹ and this mindset has persisted under RDA, even though RDA itself does

¹⁸ See RDA, 9. The elements are fuller form of name, titles (such as of nobility), profession or occupation, unique identifiers, period of activity, variant forms of name, "other designation[s] associated with a person," gender, place of birth, associated country, place of residence, address, affiliation, language, field of activity, and biographical information.

¹⁹ Joint Steering Committee for Revision of AACR, *Anglo-American Cataloguing Rules*, Second edition, 2002 revision, 2005 update (Chicago: American Library Association, 2005), 22.17-22.20.

not privilege one method of name differentiation over another. Moving towards a multifaceted habit of disambiguation would diminish the need for birth dates, indirectly alleviating some of the problem by reducing its spread. However, simply reducing the scope of the problem is not enough.

To address the root of the problem, I recommend that catalogers switch from obtaining birth date information from any place it is available to obtaining birth date information solely from the subject of the authority record. If the birth date is not available from the subject of the authority record, do not include it in the authority record. An expansive meaning of “from the subject” is intended, aligning with the recommendation of the PCC Ad Hoc Task Group on Gender in Name Authority Records to use (only) “self-identifie[d] and explicitly disclose[d] [...] information from readily and publically available sources.”²⁰ In practice, this means that in addition to birth dates determined by asking the subject of the authority record directly, birth dates which have been published by the subject (for instance, as happens in some genealogical books) and birth dates which the subject has voluntarily entered into the public sphere (such as birth year in the US copyright files²¹ or information published on the individual’s website) can also be used. By restricting the source of information to the subject of the authority record themselves, catalogers can be certain that any birth dates which are posted in the authority files are present by consent of the subject. Recall that privacy is the ability of a person to control where and how their personal information is used; therefore, if the person has consented to the information being used and shared, the use of that information is not a violation of privacy. When the date of birth is sought, the fact that the information will be made publically available,

²⁰ PCC Ad Hoc Task Group on Gender in Name Authority Records, *Report of the PCC Ad Hoc Task Group on Gender in Name Authority Records*, October 4, 2016, 2, https://www.loc.gov/aba/pcc/documents/Gender_375%20field_RecommendationReport.pdf.

²¹ Inclusion of the birth year is optional, per the instructions on the US copyright registration forms.

likely permanently,²² must be plainly disclosed; without that information, the subject of the authority record cannot make a fully informed (and therefore fully consensual) decision about whether or not to share their birth date. If the subject of the authority record declines to provide their birth date, then other means of differentiating the record must be used, and the subject's decision regarding their date of birth should be recorded so that other catalogers do not make additional queries on the matter (to respect both the subject's decision and the other catalogers' time). By respecting the wishes of the subjects of the authority records, catalogers would both be respecting the subjects' ability to control what information about themselves is made publically available (their privacy) and be respecting the subjects' level of risk tolerance with respect to identity theft and exposing personally identifying information. If the subject of the authority record would rather remain in a mix with other people with the same name than expose themselves to risk by revealing private information, that is their prerogative under an ethic of privacy. Following this single recommendation would go a long way towards creating a more ethical practice surrounding the use of birth dates in personal name authority records for living persons.

An important corollary to the previous recommendation is that catalogers must stop asking publishers for the birth dates of subjects of authority records. This includes no longer requesting birth information on CIP applications, which are filled out by publishers. Unless the

²² While in most cases consent is something which can be revoked, if the date becomes part of the authorized form of the name, the current nature of authority files makes any such revocation of consent difficult to carry out in practice. It is necessary to retain past headings for continuity; otherwise, catalogs would be left with formerly authorized forms in place and have no clear indication of what the new authorized form is. In addition, the changes propagating out to everyone who has a copy of the heading in their catalog is not guaranteed. Dates of birth which reside solely in a note field are able to be removed completely, but face the same challenge regarding distribution as dates in headings.

In a linked data system, it might be easier to remove the birth date from the locally controlled authority graph (given that there is no need for continuity between authorized forms of the name), but if that information has been copied elsewhere, it may be difficult to impossible to remove it from all the places it has spread to. "Once on the web, always on the web" applies to linked data, too.

subject of the authority record has specifically authorized the publisher to distribute their birth date, the publisher does not have the ethical right to decide whether or not to make that individual's birth date public. While this is ultimately an ethical issue on the publisher's end, it is still unethical for catalogers to take advantage of this lack of respect for privacy—catalogers can respect privacy even if the publishers do not care.

Additionally, other sources for birth dates, such as Wikipedia or biographical resources, should be used with caution, as the consent or lack thereof of the subject of the authority record is generally not clear within those sources. It is tempting to assume that since the birth date has entered other public sources, it is okay to use it, but if the birth date was posted without the subject's consent, then all uses of it constitute a violation of the subject's privacy. Someone else committing a violation of privacy does not make it ethical for catalogers to propagate that violation of privacy.

Ideally, this ethical standard would be applied retroactively by going back through the authority file and seeking permission, where not already granted, from existing subjects of authority files for the use of their birth dates. Unfortunately, completing such a project is likely not realistic, mostly because of the prohibitive time commitment involved. However, nothing but inertia ultimately prevents implementing these recommendations moving forward, and that alone would be a huge gain in the ethical treatment of birth dates in authority records.

To implement these recommendations, we must navigate a major shift in practice for many²³ and a minor change in standards for all. Currently, in the United States, directly asking the subject of an authority record for their date of birth is generally a last resort when trying to

²³ Some cataloging communities already routinely correspond with the subjects of authority records and thus would have a much smaller adjustment to make to align themselves with the recommended practice regarding birth dates.

differentiate a personal name authority record;²⁴ catalogers would have to adjust to usually²⁵ directing a request for a birth date to the subject of the authority record. A likely outcome of this shift would be that birth dates are more frequently only included when actually needed to break a conflict or, rarely,²⁶ to establish identity in cases where overlap or lack thereof is not clear. This reduction would not necessarily be contrary to RDA: although birth dates are a core element,²⁷ RDA instructions only require that core elements be recorded when “readily ascertainable.”²⁸ While the precise definition of “readily ascertainable” could certainly be debated, it does not seem unreasonable to think that having to contact an author would fall outside the bounds of “readily ascertainable.” Birth dates would clearly be less readily ascertainable once CIP applications no longer requested birth date information. However, the clearest way to ensure an ethical practice of authority control related to birth dates would be to rewrite RDA 9.3.2.2 (and 9.3.1.2) to specify that the only allowed sources of information are the subject of the authority record or sources in which the subject has voluntarily made their birth date public. Until such a change is made, an ethical practice of authority control will stand in conflict with the rules we are supposed to be following.

In the end, we as catalogers must face the universal question of whether we place greater value on our own and the library users’ convenience or on acting ethically. If we wish to act ethically, we must acknowledge that the current use of dates of birth in name authority records

²⁴ See, for instance, Joseph C. Lin, “Undifferentiated Names: A Cataloging Rule Overlooked by Catalogers, Reference Librarians, and Library Users,” *Cataloging & Classification Quarterly* 19, no. 2 (1995): 41, doi:10.1300/J104v19n02_03; and Jonathan Tuttle, “Cataloger Research for Name Authority Control,” University of North Carolina at Chapel Hill, 2013.

²⁵ If the subject of the authority record has previously chosen to make their birth date public, that source can be used instead of contacting the subject directly.

²⁶ Often, such uncertainty would be at least as easily resolved by using one of the other personal name elements, such as field of activity, as by birth date.

²⁷ RDA, 9.3.

²⁸ RDA, 8.3 and 0.6.7.

violates privacy ethics by publically exposing the personal information of the living subjects of authority records without those subjects' consent. The remedy is simple: only include birth dates in authority records if the subject of the authority record has consented to the public exposure of their birth date. This can be accomplished by only gathering birth date information directly from the subject of the authority record. Bringing our standards in line with this recommended practice would allow us to begin acting ethically while using birth dates in personal name authority records for living persons.

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