Ethical Destruction?
Privacy concerns regarding Swedish social services records

SAMUEL EDQUIST

Every year, in every Swedish municipality, there is a routinised procedure to either destroy or retain records that the social services authorities have assembled regarding individuals under its care. This happens after five years have passed since the last annotation regarding the person involved in the files. The routine is legally based in the Swedish Social Services Act, where there is a sharp line between mandatory destruction for certain records, and mandatory retention of other documents. The basic rule is to destroy the records after five years. However, files for persons born the 5, 15 or 25 any month must be kept, as well as all records in a specific set of Swedish counties and municipalities. Furthermore, certain kinds of social services records must be kept for anyone: if they are associated with investigations on adoptions or parenthood, as well all records on children (under 18) being placed in foster care.¹

In this article, I will explore the development of this system by studying the background of the Social Services Act decided by the Swedish Parliament (the Riksdag) in 1980, as well as the further investigations that finally put the rules on destruction and retention of social services records into practice in 1991. Before that, the social services records were generally stored as a whole in the archives. This mandatory disposal of archival records is an effect of a wider tendency from the late 20th century to legally destroy information due to them being considered menacing to privacy. I will show that this is a disputed tendency, and I will present a preliminary model of various interests and agent groups that are put to the front in the debates on these issues. I intend to show the complexity of the questions

involved, and how the changing practises and debates in modern history on how to deal with sensitive information engulf several conflicting interests and groups of actors. It is not only a question of individual privacy versus mass data in the control of large organisations, but also on economy, on the construction of future heritage, and the various interests of professions and other sections of society. The choice between destroying information or keeping it secret, have fostered alliances or conflicts between, and sometimes within, groups such as archivists, academic researchers, journalists, and professionals within social services.

Destruction of information has generally been justified by economic reasons (saving everything would be impossible), redundancy arguments (the important information should not be drowned in masses of less important records), and by more or less explicit political reasons in order to protect individuals or institutions. Privacy concerns constitute the only official legitimation of politically motivated destruction in Sweden. Beside social services records, privacy concerns have been legally stipulated over the last decades for several official databases and computer registers, as well as, for example, camera surveillance records. This measure, which has been called “ethical destruction”, is chosen when privacy concerns are considered outweighing others such as those of transparency, future research, and the possibilities to reuse information. Furthermore, it is put into practice when secrecy legislation is not considered enough. The decisions on ethical destruction have sometimes led to controversies, with conflicting views regarding the choices between making documents secret (but keeping them) and destroying them. The social services records are especially fruitful to study, being the result of an important institution of society, and since there is a thin line in the legislation between mandatory destruction

\[2\] This article is based on initial investigations within the research project Ethical destruction? Privacy concerns regarding official records in Sweden, 1900–2015, financed by the Swedish Research Council.

\[3\] See also Bundsgaard 2006.

\[4\] See e.g. Riksarkivet, Om gallring (1999), p. 7. There are also well-testified examples of unofficial destruction of official documents in order to protect e.g. interests in the military and the intelligence service has though happened, see Wallberg 2005.

\[5\] Öman 2006.

\[6\] In Swedish etisk gallring, which is the most common expression in Swedish archival discourse along with integritetsgallring. Even though mainly those opposing the principle have previously used the phrase, I aim at applying it impartially, representing ideas and practices of destruction of records motivated by the ethical concerns of protecting privacy.
and mandatory retention line, the contours of the issue are sharp. The debates on ethical destruction can be regarded a battlefield between proponents of privacy on the one hand, and on the other hand those of research and keeping evidence of governmental measures. Such controversies are a fruitful starting point for analyses on wider ideological structures within society. Studying differing views of privacy concerns uncover vital aspects of the relationship between individual and society as a whole.

There have been numerous academic discussions on the tensions between privacy, secrecy and freedom of information in various disciplines. As has been stressed by previous researchers, the so-called “information society” has by many been seen as leading to great dangers to privacy, which is often regarded a cornerstone of liberal conceptions of democracy. Thereby, the old question of balancing between the individual and the state is put to the front. One of the research currents – most prominent in the early development of the field – has been openly normative: it is held that a surveillance society has developed, being a menace to privacy. This research mirrors the discourse on Big Brother and mass surveillance that early on became cornerstones of the privacy proponents, and there has been a visible overlap between academic discourse and public debate. For example, the political scientist Alan Westin’s book *Privacy and Freedom* (1967) became a cornerstone both for public debate and academic research. He explored the new abilities of governments to gather personal information with new computerised systems and increased levels of control, using examples of social security numbers, personality tests, increased information in census data, and other “surveillance techniques”. Typically for the continuing debate, he also mentioned George Orwell’s *Nineteen Eighty-Four* as the iconic dystopia on the horizon. There are also explicitly normative examples of research with the opposite view – not least within the field of archival science where privacy concerns are typically regarded as dangers to the integrity of archival evidence.

---

7 It is evident in contemporary practice that strictly obeying the legislation may be complicated and sometimes even impossible, since actual files are sometimes poorly registered or arranged. For example, files that should be destroyed can be more or less inseparable from files that should be kept, see e.g. Stockholms Stadsarkiv, “Rutinbeskrivning för att gallra och leverera socialtjänstakter 2017”, pp. 9, 10 and 12.


10 E.g. Cook & Waiser 2010.
The major bulk of research – in Sweden as well as in other countries – tend to focus on issues of privacy concerns in connection with the computerised society of the recent decades, especially since the 1960s onwards, and the political regulation of data protection.\textsuperscript{11} The example of the social services records, however, testify that issues of privacy and the perceived need for ethical destruction of information are not only connected to computers and digital records, which has dominated previous research. Until recent years, the social services records have been in paper format, and yet privacy concerns were high on the agenda. There are strong examples of analogue archival records being used in the past for surveillance, repression and even worse, such as the well-known example of the German Nazi regime using century-old church records for establishing racial belonging.\textsuperscript{12}

Handling social services records: from the beginning to the 1960s

The social services sector in Sweden has grown from the former age-old system for housing and handling poor people, traditionally a responsibility for the lowest-level local governments: the municipalities.\textsuperscript{13} With the development of a more formal social services institution as part of the modern welfare system, the question of protecting sensitive information in social services records came to the fore. In 1936, a law was decided on social services registers (socialregister), which stipulated absolute secrecy for all outsiders (other than authorities needing access concerning the social matter).\textsuperscript{14} In fact, it was only in 1961 that the law was changed giving possi-

\textsuperscript{11} E.g. Bennett & Raab 2006; Blanc-Gonnet Jonason 2006; Lind, Reichel & Österdahl (eds.) 2015; Lawrence 2016. There are also surveys analysing the subject of privacy in a longer history of ideas perspective, e.g. Schoeman 1992; Vincent 2016. For previous research on data protection issues in Sweden, see also the section \textit{The 1970s investigations and the 1980 Social Services Act}. Today, there are ongoing research projects that border to mine, e.g. Anna Rosengren and Patricia Jonason’s project on the overall tensions between openness and privacy in political and legal discourses, and Johan Fredrikzohn’s PhD project in the field of history of ideas, about destruction of information in Swedish history.
\textsuperscript{13} See e.g. Pettersson 2011.
\textsuperscript{14} SFS 1936:56 section 8. SFS 1937:249 section 14: general 70 years secrecy for documents of this kind.
bility for researchers to get access to the registries.\textsuperscript{15} However, so far there were no suggestions – as far as I know – to destroy parts of the material for privacy reasons.

The general growth of the welfare system, as well as the rapidly increasing possibilities to create documents due to enhanced reproduction techniques, resulted in a rapidly growing amount of records. That fostered an increased economic savings discourse concerning archives already in the first half of the 20th century, that the growing amount of archival records had to be handled more efficiently, which would include organised appraisal with increased destruction. In Sweden, a number of government inquiry reports were published in the 1940s and 1950s on the matter, which led to a large number of decisions on record destruction in government archives, as well as a new ordinance on general destruction of certain records types that were regarded having little value.\textsuperscript{16} Some of the reports also treated local government archives, and among other things social services records were discussed and considered to be having a large research value. Consequently, the advisory instruction issued by the National Archives in 1958 for municipal archives recommended the files to be generally kept.\textsuperscript{17} It should be kept in mind that the National Archives neither then, nor today, had any mandatory authority towards archives in municipalities or the county councils, but their advisory instructions have had a large impact anyway.

The 1970s investigations and the 1980 Social Services Act

In the 1970s, arguments for the destruction of social services records came to the fore, however. They were discussed in a large government inquiry, The Social Inquiry (\textit{Socialutredningen}), which was in function from 1967 to 1977. Its first published report in 1974 voiced a new and upcoming critique that the subjects of social work had been blocked from reading their own files. It advocated a general democratisation of the social services with increased rights for the persons involved. It also mentioned different kinds of registration and thorough investigations, which the clients of social services had not had the possibility to take part of.\textsuperscript{18}

\textsuperscript{15} SOU 1977:40, p. 741.
\textsuperscript{16} Nyberg 2005.
\textsuperscript{17} SFS 1958:530, III:I; Edvardsson 1981, p. 79.
Furthermore, the inquiry report stressed that the “modern technique of storage and distribution of data”, and all its “registration of personal data” meant serious problems. The notion privacy (integritet) was frequently used, and the report emphasised the importance to “have protected spaces in the private lives” and that people should be entitled to social assistance without having to disclose “irrelevant details of one’s life and to have guarantees that no personal data via registers are spread in an uncontrolled manner”. The 1974 report also put forward the idea to avoid recording personal names in the files. While it did not leave any suggestions on the question of retention or destruction of social services records, it was visibly an example of the general upsurge of the privacy discourse in Sweden and other Western countries. In Sweden, it soon resulted in the Data Act in 1973, which obliged all computerised personal registers to gain formal permission from a new government agency, the Data Protection Authority. Thus, the inquiry report integrated the privacy discourse with a general idea of democratising the social welfare system, by limiting the power of experts and professionals and aiming to improve the rights of clients of social services and patients.

The final report of the inquiry, published in 1977, developed the privacy discourse and used the term privacy (den enskildes integritet) to underline the general importance of privacy in the social services in general. The term was also included in the first section of a proposal for a new Social Services Act, being part of the aim of the law: “the self-determination and integrity” of individuals. And more importantly, the report advocated mandatory destruction of records. It proposed as the general rule that social services files should be destroyed three years after the last annotation within them, as well as strict rules for careful manners of documentation in order to prevent unnecessary personal information being included. The destruction after three years was to be mandatory, due to its purpose of protecting the individual privacy. The time period was considered enough to safeguard the

---

19 SOU 1974:39, p. 183 and 244 (“den moderna tekniken för lagring och distribution av data [...] registrering av persondata” [...] “att få vara fredad i sitt privatliv [...] ovidkommande uppgifter om sitt liv och att ha garantier för att inte personliga data via register sprids på ett okontrollerat sätt”).


22 See e.g. Björkman 2001.

23 SOU 1977:40, pp. 31 (quote) and 652–653. (“självbestämmanderätt och integritet”)
interests of control and legal accountability. Only in two cases should there be exceptions, since records might be necessary as evidences for longer times, namely: records on child support (maintenance allowance), and investigations on fatherhood. However, the report also claimed that further exceptions from destruction might be appropriate, and recommended that the new legislation would give the Government the right to decide on such additional exceptions in order to protect evidence.\textsuperscript{24}

The 1977 inquiry report also discussed the possible research value of social services records. That issue had been discussed already in another investigation made within the National Archives in 1973. In the 1973 report, a general 20-year retention of social services records was suggested, combined with partial longer preservation through sampling in some municipalities and one/two counties. Even though privacy concerns were touched upon, its arguments for destruction were mainly based on economic demands, since the amount of records was rapidly increasing. When the report was sent out for referral, the reactions were mixed. Some universities criticised the suggestion because of impaired research possibilities, even though some could accept the partial retention and discussed alternative sampling models. The municipalities – those financing the archives in question – were more positively inclined towards destruction, while the government archival institutions were more negative. Because of this uncertainty, the social services records were omitted from the final advisory instructions to municipal archives from the National Archives in 1975, leaving further investigations to the on-going Social Inquiry.\textsuperscript{25}

Concerning the needs of retaining certain social services records for the benefit of academic research, however, the 1977 inquiry report did not come to a definite answer. It mentioned the mixed reactions on the previous National Archives proposal, and passed over the question to the Government in order to be solved later. Similar to the case of exceptional retention for evidence and legal reasons, the new legislation should be formulated so that further exceptions for research reasons were possible.\textsuperscript{26}

The suggestions by the inquiry report were largely followed in the Government bill issued in 1979, with the exception that the three years of

\textsuperscript{24} SOU 1977:40, p. 40, 747–748 and 876. The principle of not recording sensitive information even from the beginning is also noted in Friberg von Sydow 2017, p. 17, concerning medical records.


\textsuperscript{26} SOU 1977:40, pp. 746 and 748.
retention were increased to five years. Just like the inquiry, the importance of privacy was put to the front. Social services must be based on voluntariness, but a prerequisite for that was that people actively dared to contact the social bureaus. “Many” today, however, did not do so being afraid that personal information about them would “be archived for the future”, the bill claimed.27

In the further parliamentary process, the questions on archival destruction and retention were seemingly regarded non-controversial, since no objection was voiced from any representative of the (at that time Socialist) opposition.28 However, in the preceding referral process when various government agencies, municipalities, and private sector organisations had commented to the inquiry report, the opinions were more divided. To start with, many had objected that three years were not enough time for protecting legal interests, which led the Government to set five years instead in the bill.

However, only few had more principal objections on the principle of destroying records primarily for privacy reasons, instead of the usual economic ones. One of those, however, was the National Archives, that stressed that the report meant a new aspect of archival appraisal. They used the term “ethical destruction”, and claimed that this was something new compared to the Data Act, since it was now the question of analogue documents. Many organisations such as universities and Statistics Sweden also claimed that research would become more difficult.29

There was also a critique from some instances that ethical destruction might make it difficult or impossible to prove misdeeds of the past. Some of those particularly named a category of cases that was not exempted, namely, records on children placed in foster care. The Parliamentary Ombudsman (Justitieombudsmanen) mentioned that there could be cases where the new destruction rules would make it impossible to find examples of older abuse on children that could be an argument for not allowing a family to house children. If records documenting neglect (vanvård) were kept, it could mean that the foster homes in question would not be accepted again, but of course that possibility was swept away if the records were destroyed.30

27 Prop. 1979/80:1, p. 448. (“många […] rädsla för att personliga uppgifter om dem då kommer att arkiveras för framtiden.”)
28 Bet. 1979/80:SoU 44.
30 See also similar views of the national association of social workers and the National
Stockholm Municipality stated that at least 15 years of retention would be appropriate, not only for control, but also for making it possible for people afterwards to find out why they were not raised with their parents, to find out their background.\textsuperscript{31} However, concerning longer periods of retention than three or five years, neither the 1977 inquiry report nor the 1979 bill suggested any such specific time frames concerning those records that were considered worth keeping longer for the benefits of the people involved. Instead, the proposed law sections simply stated that such records must not be destroyed, which in effect means retention for ever or at least until further notice.

The result of the Riksdag decision in 1980 became the new Social Services Act (\textit{Socialtjänstlagen}), which came to effect in 1982. However, its sections on destruction and retention of records were put on moratorium by a special transition rule in the law, saying that the new destruction rule must not be used until 1987 for information before 1982. That was made in order to make room for further investigations on preservation for research purposes, but also to more thoroughly investigate the need for exceptions from destruction in the interest of the persons directly involved, so that evidence was kept more than five years. The bill particularly mentioned records on child and youth care, largely agreeing on the criticism e.g. from the national association of social workers (\textit{socionomer}) and The Parliamentary Ombudsman.\textsuperscript{32} Therefore, a new social data inquiry was set up in 1980.

\textbf{The 1980s investigations and legislation process}

The social data inquiry committee worked for six years, and while waiting for its proposals to result in legislation, the moratorium on the retention and destruction rules of the new Social Services Act was further renewed until 1991, when the question was finally solved, as we will see.\textsuperscript{33}

The social data inquiry report of 1986 advocated, concerning preserving documents for research needs, keeping all documents regarding persons born 5, 15, and 25 in any month, as well as all records in a single muni-

\textsuperscript{31} Prop. 1979/80:1, appendix 1 p. 319.
The idea of partial retention by sampling was one of the most vivid topics of discussion concerning archival appraisal in Sweden from the 1960s to the 1990s, where different methods and choices of samples were debated.\textsuperscript{34} In the case of privacy-menacing information, a somewhat paradoxical combination evolved consisting of destruction for privacy reasons on the one hand, and partial retention for future research, on the other.

As for exceptions concerning the type or nature of records, the inquiry found that child support records no longer had to be exempted from destruction since the parents normally kept them. However, records on fatherhood investigation should instead be sided with records on adoptions from other countries – a category that had not been focused upon in the 1970s investigation. However, the earlier debated topic of children placed in foster care was not considered necessary to be an exception. The five years of retention was enough for justice reasons, it was argued, since after only a few years it would anyway not be possible to demand restitution, because the time limits of penal responsibilities had then passed.\textsuperscript{35} The motives for keeping evidence of maltreatment were put forward almost purely in a legal context, in order to prevent or prosecute abuse. However, the more identity-motivated interest of maltreated persons who might want to find out his or her background long afterwards was downplayed. It was argued that most parents and children wanted the destruction of records regarding placement in foster homes, even though some would want to find out their background later. The investigators noted that the issue was complex, but they anyway argued against the argument that society should assist people’s wishes to seek their “roots”:

To the investigation, the meaning has been suggested that people’s need to learn about their “roots” would imply an obligation for society to preserve virtually all personal information. We do not share that view, […].\textsuperscript{36}

\textsuperscript{34} Edquist 2018 (forthcoming).
\textsuperscript{35} Ds S 1986:5, pp. 118–126.
\textsuperscript{36} Ds S 1986:5, pp. 118–119 and 125–126, quote p. 119. (“Det har till utredningen framförts att människors behov av att söka kunskap om sina ’rötter’ skulle innebära en skyldighet för samhället att bevara i princip all personanknuten information. Vi delar inte det synsättet, […].”)
In the referral process that followed when the Government asked for opinions on the inquiry report, there were many examples of differing ideas and various interests clashing. A number of government agencies, county councils, municipalities and private organisations were invited to respond, but there were also a number of associations and individuals that sent in their opinions on their own initiative. The conflicting views could be on many kinds, for example rivalry within the public sector. Some municipalities were angered by the report’s suggestion that the preserved records should be stored in central government archival depots – not in the municipal ones as would normally be the case.

Some advocated even more total destruction, and argued that it was wrong to keep the records concerning those born on 5, 15 and 25. For example, non-socialist political representatives in Stockholm Municipality stated that academic interests must not have precedence over the interests of privacy. From the opposite point of view, the idea of archival sampling on these records was criticised by a local municipal archive, stating that it was illogical to perform ethical destruction and at the same time keeping vast quantities of a part of that material for research purposes. It also stated a general criticism on ethical destruction, especially on doing it retroactively: “if the principles of our own time are applied on older archival material, created in other circumstances, the so called ethical destruction becomes a tool of censorship, a falsification of reality with incalculable impacts”.

Several representatives for the social services professionals warned against destruction on records on adoptions within Sweden, and some also mentioned the case of foster care placements. There were also previously

38 V 1967/86: opinion nos. B 22 (Uppsala County Council); B 29 (Botkyrka Municipality); B 43 (FALK, an association of archivists in local governments).
40 V 1967/86: opinion no. B 29 (Botkyrka Municipality, p. 6). (”Om vår egen tids principer appliceras på äldre arkivmaterial, tillkomna under andra förutsättningar, blir den s k etiska gallringen ett censurredskap, en verklighetsförfalskning med helt överskådlig räckvidd.”)
41 V 1967/86: opinion nos. S 40 (Ale Municipality), S 45 (E. Holgersson, social worker), S 46 (Södertälje Municipality, the family section), S 50 (petition by social workers). The view of keeping from adopted and placed could be combined with the privacy-related criticism on
adopted individuals that protested against the destruction of records on adoptions within Sweden. That was interpreted as a way of protecting the interests of parents at the expense of those of the children. The latter should have the possibility not to contact their biological parents if they would like to know more about their past, since the only remaining documentation otherwise would be the brief facts of names and dates in the national registration records. The social services records, with information on the actual circumstances in adoption cases, should be kept for them to read in peace.\textsuperscript{42} \textit{Allmänna Barnhuset} – a government-led foundation dealing with child care – also claimed that the interest of children was not taken into account in the referral process, while three organisations of adult clients of social services had been invited.\textsuperscript{43} The latter generally advocated privacy, stressing that privacy must in principle be placed before research. Therefore they advocated anonymisation of the records to be kept.\textsuperscript{44}

\textit{Allmänna Barnhuset} also put forward that parents and grown-ups (including researchers) were premiered before children concerning placements in foster care. They used the fictional case of the 24 year old Lena who contacts the social services in order to know why she had been placed in foster homes from she was two years old:

If the suggestion of the social data inquiry becomes real, the answer to Lena would be: There are no records concerning you. There were records, but of concern for you and your parents, they were destroyed. If you are born on the 5, 15 or 25, they remain, but not for your sake, but of concern for research needs for data.\textsuperscript{45}

\textsuperscript{42} V 1967/86: opinion no. S 44 (former adopted child). ("Ni får inte tvinga barn att ta kontakt med sina biologiska föräldrar bara för att få svar på den fråga som alla vi adoptivbarn bär på: varför lämnades vi bort? Låt oss även i fortsättningen ha den möjligheten att kunna söka svaret i papper i stället för genom ett möte som kanske skadar både oss och våra föräldrar.")

\textsuperscript{43} V 1967/86: opinion nos. B 38 (De Handikappades Riksförbund, DHR); S 47 (Handikappförbundens centralkommitté, HCK). Two other client organisations, ALRO and Verdandi, were invited to respond, but did not.

On the contrary, among the letters to the government gathered in the large dossier from the process, there is also one from an individual former subject to foster care arguing for his right to have his old personal records removed, just as it had been possible with medical records since 1980.46

After a couple of years, the suggestions of the 1986 inquiry were finally made into a government bill in 1990 – in fact the process was integrated with the introduction of the Archives Act. By then, the social services records had been part of the abovementioned discussions on organised sampling for almost twenty years. Centralising the sampling on a national level to encompass many kinds of records for the benefit of future research, was one proposal. The idea was to retain large amounts of data from at least some regions concerning a certain percentage of the Swedish population, in order to allow for research using quantitative and longitudinal methods, a research practice particularly heralded at the time. The end result in the Archives bill of 1990, put into reality in July 1991 for the social services records, was keeping records from all people born on the 5, 15 and 25, as well as everything from the counties of Västernorrland, Östergötland and Gotland, as well as from Göteborg municipality. The temporary moratorium on destroying files in the Social Services Act was lifted, so that the main rule of destroying files after five years was finally put into practise. It was also stated that it was optional for municipalities to destroy such records from the period before 1982 that were equivalent to the ones that must be destroyed from 1982 onwards.47

The government bill also largely responded positively to the critique concerning adoptions within Sweden and placements in foster care – such cases were now also included as exceptions, beside those documenting international adoptions and fatherhood (even though most referral bodies had had no objections regarding the original suggestion to destroy such records). The government bill actually used the term ethical in its legitimation of the need of preserving the documents in question. Contrary to the inquiry report, it placed large emphasis on the importance to find one’s roots; it would be “ethically wrong” not to make it possible for persons to get to know his or her origin and background, such as concerning adoption

or separating children from parents. The word “ethical” was thus used in the discussions both to describe the destruction and the retention of records – even though the phrase “ethical destruction” was mainly used by archivists in a somewhat sarcastic tone.

The example of the social services records show that the demarcations between keeping and destroying had changed during the long process from the early 1970s into the final solution in 1991. Since 1991, the rules have been fairly the same, with some changes in detail concerning types of placements, and adjusting the older notion of “fatherhood” to “parenthood”. In 2005, similar rules of five year destruction and partial retention was also introduced in the Law regulating Support and Service to Persons with Certain Functional Disabilities (LSS), in conjunction with a reform that stressed the needs for enhanced documentation in a similar manner as stipulated in the Social Services Act. And in 2008, both these laws introduced the regulations on retention and destruction also in private sector institutions.

How archival politics shape the documentary heritage for the future

These examples show that the study of the history of ethical destruction point towards several interesting directions. One obvious result is that the discussions on privacy have affected the structure of archival documentation regarding an important sector of society. It has created a reality where there is a vast amount of archival documentation concerning some individuals and in some parts of Sweden, whereas it is largely absent elsewhere.

As was shown above, there was an increased focus in the 1980s on the need to preserve certain records on justice and ethical reasons, in order to guard the citizens’ rights against the deeds of authorities, family members or foster parents. It also led to additional exceptions from destruction in the Social Services Act. During that decade, there was also a shift in the national

48 Prop. 1989/90:72, p. 95. (“etiskt felaktigt”)
51 SFS 2007:1315 chap. 7 section 3a; SFS 2007:1313 sections 23a and 23b.
archival politics, where privacy concerns lost ground while general heritage concerns instead were strengthened.\textsuperscript{52}

A common criticism also in later years up till today has been that ethical destruction makes future rehabilitation against misdeeds in the past impossible; and typically the misdoings discussed are located in a more distant past than in the discussions I have analysed from the 1970s and 1980s.\textsuperscript{53} That discourse has become strengthened worldwide in the late 20th and early 21st century, targeting historical crimes of various governments, such as genocides and discrimination. In Sweden, such discourses had a large presence from the 1990s, disputing government policy during World War II, government approved forced sterilisation, and the policies toward the Sami and Roma peoples.\textsuperscript{54} Maltreatment of children in foster homes in earlier parts of the 20th century have also come to the fore in various countries, triggering official apologies and investigations.\textsuperscript{55} In Sweden, the latter issue led to government inquiries, a government apology in 2011 and the right for previous victims to apply for indemnity. In that context, it is interesting that the legal uncleanness from 1980 to 1991 seems to have led to some non-official destruction of documents, sometimes obstructing proving maltreatment in past social child care. After all, the original version of the law included records on placements in the main category to be destroyed after five years, even though it was never formally in practice until 1991 when the placements and adoptions were included. An investigation report in 2011 on maltreatment in foster care in the 20th century, found that the unclear legal situation from 1980 to 1991 seems to have led to some non-official destruction of records concerning those groups. The effects of such absence of documents should not be exaggerated, however, since existing documentary records from out-of-home care often are hard to use as further evidence on maltreatment witnessed by the victims themselves – beatings and other misdeeds were simply not put on file.\textsuperscript{56}

\textsuperscript{52} Rosengren 2016; Edquist 2018 forthcoming.

\textsuperscript{53} See e.g. Ketelaar 2002, p. 229; Cook & Waiser 2010.

\textsuperscript{54} Misztal 2003, pp. 145–155; Nobles 2008.

\textsuperscript{55} Sköld & Swain (eds.) 2015.

Interests and agent groups

The issues on ethical destruction were characterised by tensions between various interests and agent groups, and tended to follow similar patterns. In the discussions on the social services records presented above, it is at least possible to speak of five types of different interests, having an impact on the opinions expressed concerning access to documents containing personal information. Two of them work for destruction, and three for retention:

The privacy interest primarily aims at protecting personal privacy. Typically, it leads to demands on various levels of secrecy or, if such measures are not considered protection enough, destruction of records.

The economic interest is generally the most common driving force for destruction of documents. This “interest” is normally the result of limited economic resources for archiving; it is seldom a target in itself but rather seen as a (regrettable) necessity.

The openness interest is the view that documents should be kept as evidence, for individuals to control their own contacts with authorities, e.g. medical documents and surveillance acts from the security police. This interest in transparency and accountability also applies for the general right to control the deeds of the authorities, by single citizens or by mass media.

The heritage interest stresses that information should be kept in order to provide the society of the future with the richest possible traces from the past.

The academic interest wants information to be kept in order to help academic research. In social and historical sciences, there is no sharp limit towards the heritage and openness interests. The academic interest is more “purified” when it comes to medical research.

This model should be regarded as a starting point and might be used as an ideal-type model for further investigations, and possibly it can be redefined and sharpened during my further research process. Its main advantage is structuring the main positions in a complex debate with many agents involved. Of course it does not exclude the possible existence of yet other forms of interests, but so far I regard them as the most important.  

For example, destruction in order to remove redundancy is not included, since this otherwise normal legitimation of destruction is typically applied on records containing little and/or short-lived informational or evidential value, which is hardly the matter with social services records. An interest type that I have hardly detected at all so far, but that might be found in other materials, can be termed the “too much information” interest; the
The debates on privacy issues can also to a large extent (of course not generally) be described as conflicts between a number of collective agents – or agent groups – that have been involved in the discussions on privacy in documents. In the following, I will show some examples on divergences and alliances between and sometimes within various such agent groups, as well as a tendency that certain agent groups incline to cherish certain of the above-mentioned interests more than others.

Archivists and archival institutions seem to have been generally fighting for preservation of documents even if they were a danger to privacy. The Swedish National Archives have generally tended to defend heritage and academic interests but also used the argument that ethical destruction risked wiping out traces of misdeeds in history, creating a beautified picture of the past. In the Swedish archival profession, there are many signs of a general inclination towards keeping records. Destruction is generally regarded as a necessary means in many occasions, but should only be used for records of lesser archival value – not for any ideological reasons. This is partly an ethos that is also incarnated in classical archival theory, not least the principle of provenance, which stresses the integrity and organic essence of archives, whereby destruction motivated by ideology is seen as an anomaly.

Archives and academic researchers seem to have been largely united in defending retention interests, for example in the prolonged discussions from the 1960s to the 1990s on archival retention in certain sample regions, for the interest on longitudinal research. Diverging views have been pos-

---

58 See e.g. Nilsson 1976, p. 79; Staffan Smedberg, PM 23 Dec. 1986, registration no. 707-87-55, vol. 48, series F1D, Archives of the National Archives (Riksarkivets ämbetsarkiv), younger main archive (yngre huvudarkivet), National Archives, Marieberg.

59 The International Council of Archives’ “Code of Ethics” (1996) states that archivists “should protect the integrity of archival material and thus guarantee that it continues to be reliable evidence of the past” and that they "should take care that corporate and personal privacy as well as national security are protected without destroying information”. However, it also claims that “they must respect the privacy of individuals who created or are the subjects of records, especially those who had no voice in the use or disposition of the materials”. See also Millar 2017, pp. 116 and 119; Rosengren 2017, p. 52.

60 See also Rosengren 2016; Rosengren 2017, pp. 29–32.

61 For an example where an archival institution used a contemporary social history project
possible to detect, however. By way of example archival professionals could sometimes regard academic researchers as ignorant of the necessities of destroying records for economic reasons. The interest of academic research was also sometimes downplayed by other agents, who implied that it represented a narrow and somewhat elitist position that should not take precedence. In the social services records discussion, for example representatives for the client organisations repeatedly stated that privacy must be placed above that of academic research.

The inclusion of client organisations in the referral process in the 1970s and 1980s should be seen to reflect a change in the welfare system where an older and more authoritarian tendency was questioned, with experts having too much formal power. But as we have seen, there were signs of conflicting views within these groups, for example between different representatives or spokespersons of parents and adopted children. Some stressed the importance of privacy and destruction of sensitive information, others protested and argued that it had to remain as evidence of the past, to know one's background, or to prove wrongs.

The political arena has of course been of vital importance, since the legislation on ethical destruction issues were decided there. However, there was overall somewhat of a consensus regarding these questions, if considering the discussions in the Riksdag. There were only few examples of differences, and then there was a slight tendency that non-Socialists were closer to the “privacy” node while the Social Democrat government bill in 1990 – preceding the Archives Act – made a mark against ethical destruction. In the decision process of the 1980 Secrecy Act, a conservative Riksdag mem-

plan that risked being hindered if social services records were destroyed, see the opinion of the Regional State Archives in Östersund on SOU 1987:38 (Arkiv för individ och miljö), File with registration number 2970/87, the Archives of the Ministry of Education and Research (Utbildningsdepartementet), main archive 1975– (huvudarkivet), series E1A, volume 3176 (part of regeringsakt 8 Febr. 1990 no. 8). National Archives, Arninge.

62 For an example of the research opinion, see e.g. Nygren, Larsson & Åkerman 1982, pp. 179–180, 249, 270–282. See also Edquist 2018 forthcoming.

63 Prop. 1989/90:72, p. 40. See also Flaherty 1989, pp. 123–125, who shows a differing attitude between the Social-Democrat and the non-Socialist governments of the 1970s and 1980s towards the Swedish Data Protection Authority. The observation on general political consensus in Swedish archival politics, with major differences rather showing between agent groups outside the parliamentary arena, has previously been noted by Åström Iko 2003, p. 24.
ber claimed that medical records should not be seen as official documents at all, but rather as "working papers", thus not accessible for any outsider:

The justification for “the principle of public access to official documents” in Swedish law is based on the notion of the citizen’s need and right to control authorities. However, there is neither a need nor a right for the citizen to infringe other citizens’ privacy.⁶⁴

In the legislation process preceding the Archives Act in 1990, which included the final settlement of the issues on social services records, actually the only initiative taking privacy to the fore was a Liberal proposal demanding that only laws (statutes decided by the parliament) should be able to regulate retention, never ordinances (statutes decided by the Government). They also stated that privacy should be placed above against academic interests. However, their suggestion was turned down and there was only a brief debate on the matter in the Riksdag.⁶⁵

Journalists and amateur historians constitute other agent groups that played a marginal role in the debates on social services records I have covered here, but they were more active in other discussions on ethical destruction. Many journalists have traditionally been advocates for the openness interest, while at the same time, the mass media have often voiced ordinary citizens’ perceived privacy interest vis-à-vis authorities and academic researchers.⁶⁶ Amateur historians tend, in other debates on archival appraisal, to praise the heritage interest, not seldom against the academic interest.⁶⁷

In the 1970s and 1980s legislation processes on social services records, there were not only conflicts between retention and ethical destruction. The costs of keeping the rapidly growing amount of documents were also a key factor. These economic aspects had been visible already in the 1930s debate,

⁶⁴ Bet. 1979/80:KU37, p. 47–48 (Gunnar Biörck, m). ("Motivering för 'offentlighetsprincipen' i svensk lagstiftning baseras på föreställningen om medborgarens behov av och rätt att kontrollera myndigheterna. Något medborgerligt behov av, eller någon rätt, att göra intrång i andra medborgares personliga integritet föreligger däremot inte. [– – –] 'arbetspapper' […]


⁶⁶ Many journalists in Sweden have taken part in public debates on freedom of information, secrecy and ethical destruction, see e.g. Funcke 2006; Olsson 2008. See Qwerin 1987 and Söderlind 2009 for examples of mass media coverage of data protection issues.

⁶⁷ Edquist 2018 forthcoming.
when non-obligatory registration of social registries was proposed to limit the budgetary burden of small municipalities. At the political level, a general drive for savings in the archival sector was possible to discern during the 1970s and a large part of the 1980s. Characteristically, one departmental inquiry in 1981 was called “The archival problem of society” (Samhällets arkivproblem), stressing the need to further dispose of records.

As has been mentioned, the economic demand was often put forward as an important argument to destroy records that existed in large volumes, such as those from the social services. It continued to exist alongside the argument related to privacy, which gained strength at a later stage, in the 1970s. Obviously, the two arguments could sometimes be combined. A good example is the reaction from Jönköping municipality on the 1986 inquiry report’s suggestion that Jönköping would be a sample area where all documents should be kept. Jönköping municipality stressed the privacy argument, but the economic consequences of the suggestion were commented upon with particular irritation. The report had not counted on the amount of work and money that would be needed for transferring “several millions of A4 pages” of records from the social services administration to archival paper formats, the Jönköping official fumed.

Concluding discussion, with a glance of future research

This article has given some results and perspectives, and most of them should be viewed as threads to be further examined and elaborated in deepened form. Privacy concerns should be seen as an ideological stance, since they form a particular collection of ideas, values and beliefs of political relevance, in this case a certain tendency to emphasise the rights of the individual in relation to society at large. That perspective has been the

---

68 E.g. Bet. 1936:2LU 18, dissenting opinion (K.G. Westman and G.A. Johansson i Hallagården): “Pappersmängder och skriverier börja ej onödigtvis tynga förvaltningen”.
70 V 1967/86: opinion no. B 30 (Jönköpings kommun) (“flera miljoner A4-sidor”). Cf. Rosengren 2017, pp. 31–32, who discusses arguments in the archival literature on records destruction, which normally derives either from there being too many documents, or that they risk menacing privacy. The social services records belong to both categories at the same time.
71 This has previously been underlined by e.g. Stahl 2007, pp. 35–45; see also Stefanick 2011. The concept of ideology has been defined and used in almost countless ways; I use it in a semi-wide manner where systems of ideas must be linked to aspects of power struc-
most accentuated in this article. However, privacy concerns are of course not the only ideological stance within the debates on ethical destruction. The ideals of retaining information for freedom of information, heritage, and academic research purposes, are also ideological in various ways. It is necessary to at least make an effort to “step outside”, trying to equally treat all conflicting views on how to handle potentially privacy-menacing records without taking sides. The analysis of views on privacy concerns versus the interests of society as a whole, opens up an alternate dimension of political ideas operating across the party-political spectrum. In a similar way as nationalism, religion, and ideas on relations between humans and nature, the ideas regarding privacy cannot easily be connected to the traditional political ideologies, which only make them even more interesting. The relative lack of discussions in the Riksdag on these matters supports this point.

In the continuation of the research project from which this article is the first, the suggested typologies of conflicting interests and agent groups will be further analysed, and tested whether it has to be expanded or otherwise corrected. The existence of the consultation system normally preceding legislation in Sweden makes a good ground for these kinds of analyses, as shown above with the example of the 1986 social data inquiry report.

It is still in many cases an open question whether increased privacy concerns are related to late modern computers, or if it is rather a phenomenon typical of modernity, or even older than that. One may argue that the emphasis on privacy might be linked to the fact that privacy was conceptualised as a topic of its own in the 1960s. During this period, privacy was seldom a topic of public debate, however. Further analyses of the era before the 1970s will hopefully bring more light on this issue. For example, the investigations regarding social services records in the 1930s and 1950s will be more thoroughly studied. What agents were at all involved in the discussions?

The further investigations will also include at least two other forms of records, that are both related to the social services records by being largely in paper form (at least before lately), in order to add possible new perspectives on the actual importance of computerisation in the privacy debates. First, the discussions on social services records were often discussed in conjunction with those on medical records in the 1970s and 1980s. A 1968 government inquiry report had suggested to generally keep medical records from inpatient care for 30 years, and for 10 years concerning outpatient care. Previously, the records had been generally kept, but the need for destruction was now entirely motivated by economic reasons. However, in the 1970s, the privacy arguments also entered into the medical records area. Suggestions to permit individuals to decide on the destruction of their own information in medical records were made in Riksdag proposals in the mid-1970s, and more importantly also in a 1978 inquiry report. The possibility was then legally introduced in July 1980, and included in the new legislation on medical records 1985, which otherwise stipulated that medical records must be kept for at least three years – changed in 2008 to ten years. In the discussions, it was claimed that there was a difference between medical documents and social services records since the former were of more direct value for the individual involved, while the latter were mostly interesting for the authorities.

Academic research data is another important intersection for debates on ethical destruction, especially those records that contain sensitive personal information, for example in research in psychology or sociology. There has been a constant discussion in Sweden regarding privacy concerns in certain research data, in politics and in particular cases involving the Data Inspection Authority and the National Archives. In some instances, these issues concerning privacy in research data have come to public attention, for example in 1986, when the sociological research project Metropolit was heavily attacked in mass media for its longitudinal registration of personal data from everyone born 1953 in the Stockholm area.

In preliminary surveys, I have detected many signs of conflicts between archives and universities, not the least in cases when researchers, for exam-

74 SOU 1968:53.
75 SOU 1978:26, pp. 143–146; Ds S 1982:5, pp. 69–70.
77 Ds S 1982:5, p. 69.
78 Stenberg 2013.
ple, have wanted to protect their informants in questionnaires and medical examinations from ending up in archives. This is partially connected to divergences in the views of the status on research data, with a common conception in the scientific community that researchers "own" their research materials, even though the Swedish legal framework largely regards them as official documents that should be treated thereafter. Archival professionals have tended to claim that researchers’ low awareness of freedom of information and archival legislation leads to instances of “unofficial” ethical destruction. In fact, handbooks on research ethics have mentioned that researchers should be prepared to contemplate destruction of sensitive personal information, if he or she had promised anonymity or confidentially that was not grounded in the secrecy legislation, “and take the punishment it might lead to”. A well-known example is the controversy in 2003–2005 when research material at Gothenburg University connected to the disputed psychiatric diagnosis DAMP was illegally destroyed.

Academic researchers thus seem to figure on two sides. In some cases they are the ones creating and keeping the documents seen as menacing to privacy, and in those cases they often tend to endorse the idea of ethical destruction. In other cases, researchers want access to documents created by others, and in these instances, ethical destruction is instead normally resisted. As we have seen, the regulation of contemporary social services records also included the opinions of the academic research professionals that normally advocated retention.

A somewhat metatheoretical point may be put to the front as a concluding remark. In social history research, so-called case files on individuals in official archives, such as medical records, criminal case files, and social services records, have been important source materials for decades, at least since the 1960s and 1970s. Not seldom, these case files have been interpreted in a Foucauldian theoretical framework, analysing the ways experts and other power/knowledge institutions have handled marginalised groups of society. It is regularly emphasised that the very creation of these records and files constituted an important part of the power mechanisms:

80 Hermerén 1986, p. 178. (“ta det straff som detta eventuellt kan medföra”)
81 See e.g. Mot. 2003/04:K379 demanding legislation changes after the DAMP controversy.
The creation of a case file implies the intervention of institutional and bureaucratic power into people’s lives. The (usually middle-class) staff associated with these sources of power, whether professionals or volunteers, generally were concerned to resolve conflicts, bring their clients into conformity with dominant social and political norms, and/or punish political, sexual, and other transgressors.82

Even more specifically, some researchers have made use of Foucault’s specific writings on the dossier, and the ways these crystallised discourses of power/knowledge framed the individual as an object of power.83 In the quoted example, the authors made use of these records in order to combat a traditional harmonising nation-centred and elitist history-writing, by lifting the marginalised groups to the fore. The archived records used for state surveillance and power techniques, are thus the tool for critical scholars of deconstructing the same power structures.

Similar discourses on power and surveillance have been used by the privacy advocates in the debates concerning mass data, criticising governments for keeping registers and knowledge on individuals as a means of exercising – at least potential – power. For the social historians quoted, the archived information of yesterday is a prerequisite for unveiling certain power structures and mechanisms. For the privacy advocates, however, the same type of archived information today constitutes a danger and should be destroyed. To some extent, then, this may be formulated as a conflict between past and present, between concentrating on revealing privacy-menacing measures in history, and combatting them today.

References

Archives
Archives of the Ministry of Education and Research (Utbildningsdepartementet), main archive 1975– (huvudarkivet). National Archives, Arninge (Täby).
Archives of the Ministry of Health and Social Affairs (Socialdepartementet), main archive 1975– (huvudarkivet). National Archives, Arninge (Täby).

82 Iacovetta & Mitchinson 1998, quote p. 6; see also pp. 4 and 9.
83 Iacovetta & Mitchinson 1998, p. 10; Strange 1998, pp. 44–45 footnote 7. See also Chrostowska 2006 on Foucault’s own interest in the dossier, case files on individuals.
Archives of the National Archives (Riksarkivets ämbetsarkiv), younger main archive (ynge huvudarkivet). National Archives, Marieberg (Stockholm).

Official inquiry reports

[Ds = Departementsserien; inquiry reports initiated by government ministries]
SOU = Statens offentliga utredningar; Swedish Government Official Reports]
Ds S 1982:5 Bevarande av journaler m.m.
Ds S 1986:5 Gallra och bevara socialtjänstens personregister
Ds U 1981:21 Samhällets arkivproble
SOU 1968:53 Arkiv inom hälso- och sjukvård: delbetänkande
SOU 1974:39 Socialvården: mål och medel: principbetänkande
SOU 1975:71 Landstingens arkiv: slutbetänkande
SOU 1977:40 Socialtjänst och socialförsäkringstillägg: lagar och motiv
SOU 1978:26 Hälso- och sjukvårdspersonalen ansvarsfrågor: samverkan personal–patienter: huvudbetänkande
SOU 2011:61 Vanvård i social barnavård: slutrapport

Statutes (laws and ordinances)

[SFS = Svensk författningssamling; Swedish Code of Statutes]
SFS 1936:56 Lag om socialregister
SFS 1937:249 Lag om inskränkningar i rätten att utbokoma allmänna handlingar
SFS 1958:530 Riksarkivets cirkulär till rikets kommuner med råd och anvisningar om gallring i kommunernas arkiv
SFS 1980:620 Socialtjänstlag
SFS 1985:562 Patientjournallag
SFS 1986:1393 Lag om ändring i socialtjänstlagen
SFS 1988:129 Lag om ändring i socialtjänstlagen
SFS 1990:295 Lag om ändring i socialtjänstlagen
SFS 1990:789 Lag om ändring i socialtjänstlagen
SFS 1991:26 Förordning om ändring i socialtjänstförordningen
SFS 2001:453 Socialtjänstlag
SFS 2001:937 Socialtjänstförordning
SFS 2005:125 Lag om ändring i lagen om stöd och service till vissa funktionshindrade
SFS 2005:128 Förordning om ändring i förordningen om stöd och service till vissa funktionshindrade
SFS 2005:452 Lag om ändring i socialtjänstlagen
SFS 2006:463 Lag om ändring i socialtjänstlagen
SFS 2007:1313 Lag om ändring i lagen om stöd och service till vissa funktionshindrade
SFS 2007:1315 Lag om ändring i socialtjänstlagen
Riksdag (parliament) print

[Bet. = betänkande; report from a Riksdag committee
Mot. = motion; proposal by a member/members of the Riksdag
Prop. = proposition; Government bill
Prot. = Riksdagens protokoll; records of Riksdag debates]

Bet. 1936:2LU 18 (Andra lagutskottets betänkande 18)
Bet. 1979/80:KU37 (Konstitutionsutskottets betänkande 37)
Bet. 1979/80:SoU 44 (Socialutskottets betänkande 44)
Bet. 1986/87:SoU11 (Socialutskottets betänkande 11)
Bet. 1987/88:SoU11 (Socialutskottets betänkande 11)
Bet. 1989/90:SoU18 (Socialutskottets betänkande 18)
Mot. 1989/90:Kr17 med anledning av prop. 1989/90:72 om arkiv m.m.
Mot. 2003/04:K379 Sekretess och handlingars offentlighet
Prop. 1979/80:1 om socialtjänsten
Prop. 1986/87:43 om uppskjuten tidpunkt för gallring av socialnämndernas personakter och personregister
Prop. 1987/88:76 om uppskjuten tidpunkt för gallring av socialnämndernas personakter och personregister
Prop. 1989/90:72 om arkiv m.m.
Prop. 1989/90:93 om uppskjuten tidpunkt för gallring av socialnämndernas personakter och personregister
Prop. 2004/05:39 Kvalitet, dokumentation och anmälningsplikt i lagen (1993:387) om stöd och service till vissa funktionshindrade (LSS), m.m.

Other printed references


Chrostowska, S.D. “’A Case, an Affair, an Event’ (The Dossier by Michel Foucault).” *Clio* 35, no. 3 (2006), pp. 329–349.


Stockholms Stadsarkiv. “Rutinbeskrivning för att gallra och leverera socialtjänstakter 2017”. Available at http://stadsarkivet.stockholm.se


