

Privacy and the Prospect Researcher

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Most of us present a version of ourselves to the public that we hope is attractive, or at least, inoffensive. But in our own houses with the doors closed, all our defenses are down, and our imperfections are unprotected. We are safe from exposure. To find that this sanctuary can be violated without our consent, however, challenges some deeply rooted cultural assumptions about privacy.

Those we allow into our private space are there because (we hope) they understand the context of our lives. They are less likely to judge us unfairly because they know us as complex people with both attractive and unattractive qualities. If you know the whole context of a person's life, an isolated example of an unseemly quality will probably seem less offensive. That's the theory anyway.

If someone who does not know us observes us in our private space, it feels like a terrible invasion of privacy. It is not just a physical intrusion that triggers this sense of violation. Simply being subject to observation, either directly or by access to private information about us, is enough to cause the injury. We fear that facts about us may be taken out of context and used to harm us.

This brings us to the crux of the problem of privacy and the prospect researcher. The role of the prospect researcher is to gather information about potential donors. Prospect researchers are quick to point out that they limit themselves to public information sources and do their work with a presumption of respect for the prospective donors they research. Nevertheless, if you tell someone that your job is to collect facts about donor prospects, the chances are good that they'll look at you as if you'd just confessed to voyeurism. But, the fact is, prospect researchers as a group tend to be strong privacy advocates. Knowing that privacy lines can sometimes be crossed with relative ease, prospect researchers are vigilant not to cross them.

TROUBLE AT THE ACLU

The American Civil Liberties Union (ACLU) has been the recent subject of publicity over plans to engage a vendor to conduct research on its donors and other constituents. On December 18, 2004, *The New York Times* broke a story entitled "ACLU's Search for Data on Donors Stirs Privacy Fears," which detailed how the ACLU's executive director hired a firm to screen its database for prospects capable of contributing to an upcoming fundraising campaign. An officer of the ACLU learned about the project and alerted the board of directors because the organization's privacy policy explicitly states that the ACLU will not gather personal information on members and donors without their permission. After the board expressed concerns, the policy was changed to use more general language.

Although the ACLU has been the focus of much recent attention, the situation does not bring into question the ethics of doing prospect research. It does point out that if your policy states that you don't do research, or don't do certain kinds of research, you had jolly well better not



Executive Summary

Faced with ever-increasing competition for the donor dollar and the never-ending need to "do more with less," nearly every nonprofit professional would agree that securing and maintaining major donors is one of the most – if not THE most – critical functions of any organization's development team. They would also agree that identifying and appealing to the best potential donors requires more information about those individuals than just their names and addresses. However, disagreement abounds regarding how much personal information is necessary; which techniques (if any) used to secure such information are not only legal, but ethical; how far can one delve into a prospect's nonpublic life before crossing the line into privacy invasion, and whether prospect research is ultimately "worth it." Here, David Lamb separates fact from fiction and highlights the right way for nonprofits to reel in major gifts.



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do it. If you decide to change your policy on what you'll do with donor data, you should do so publicly so that the donors are duly warned.

LEGAL AND ETHICAL BOUNDARIES

The 4th Amendment notwithstanding¹, there is no Constitutional right to privacy. Over the last 100 years, however, the courts have upheld “the right to be left alone.” With this as a starting point, legally recognized invasions of privacy can be boiled down into four distinct categories²:

1. The unreasonable intrusion upon the seclusion of another
2. The appropriation of another's name or likeness
3. The unreasonable publicity given to another's private life
4. Publicity that unreasonably places another in a false light before the public

While all of these should be avoided while doing donor research, it is the first invasion that is most likely to tempt prospect researchers. A healthy ethical orientation is the best safeguard against “intrusion on the seclusion” of our prospects.

The Association of Professional Researchers for Advancement (APRA) is the international organization that promotes and supports the activities of prospect researchers. APRA has taken a strong stand on the privacy issue and offers good guidance in its Statement of Ethics³, which includes these lines:

- “Advancement researchers should be experts on the reliability of sources (print, electronic, and otherwise), as well as the sources utilized by third parties to gather information on their behalf.”
- “Advancement researchers shall present information in an objective and factual manner; note attribution, and clearly identify information that is conjecture or analysis. Where there is conflicting information, advancement researchers should objectively present the multiple versions and state any reason for preferring one version over another.”

These two points can't be emphasized enough. It is not enough to limit yourself to public information. The quality of the information in the public domain ranges from rock solid truth to outright lies. Researchers must do their best to discern the quality of the information found and report only that which is truthful. Whenever possible, the researcher should find two or more reliable sources that agree with each other.

Before leaving the topic of ethical and legal boundaries, it must be noted that prospect researchers at certain types of nonprofits must pay attention to industry-specific laws. I speak here primarily of hospitals that are governed by the Health Insurance Portability and Accountability Act (HIPAA) regulations. It behooves researchers employed by healthcare institutions to read the law and know the parts that are relevant to their work.

WORKING WITH VENDORS

In the world of prospect research, a “vendor” is a business that aggregates and sells data useful to prospect researchers. Example companies are Dun & Bradstreet®, Hoover's®, 10K Wizard®,



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¹ The Fourth Amendment says: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

² <http://www.ffhsj.com/21stbook/chapters/ch12intr.htm>

³ www.aprahome.org/advancement/index.html

DIALOG®, and LexisNexis®. These companies collect, organize and index news, business, and asset information. The researcher usually accesses all this information through a web page with simple search commands, retrieving large amounts of data in a short time. Collectively, these vendors are known as “commercial data brokers.”

The power of the search capability provided by data brokers is impressive, but it is not unlimited. Much of the data they collect is information that legally must be disclosed by certain individuals and companies. Everyone has a right to see it. The data brokers just make it easier to access.

For example, a public company insider (defined as a top officer, director, or 10% shareholder of a public company) has enormous potential to make decisions that affect the profits of the company. The government recognizes that the shareholders of that company and the public at large (who for the most part are not insiders), have a legitimate interest in knowing if the insiders bought or sold shares in the company and how much of the company each insider owns. This openness is designed to reduce the ability of a company’s leaders to surreptitiously take actions that are harmful to the stockholders and to the economy. However, a person could own stock worth billions of dollars and not meet the criteria for an insider. A non-insider’s stock is invisible to the prospect researcher. Because most people are not insiders, their stock is safe from examination by strangers. On the other hand, insiders know and expect strangers to be interested in their stock holdings.

The collection of insider stock data is just one example of a growing number of data streams funneled to commercial data brokers. It is important for researchers to understand the provenance of the information provided to them by their vendors. Only information that is legally and ethically collected can be used for the purposes of prospect research. But the question remains, how do you know when there’s a problem?

Let’s consider the kind of information that might be purchased from a commercial data broker:

Insider stock holdings: The government collects and publishes this information for the good and protection of the public. It is easily accessed from the government’s own website, though data brokers improve the ease of search and retrieval.

Real estate values and descriptions: The government records property values for the purpose of levying taxes. It is made available to the public to ensure that taxation is evenly and fairly administered. Data brokers obtain the information from county assessor offices and index it for ease of searching.

Private company directories: Much like phone directories, these sources allow customers and suppliers to find and evaluate companies with which they might do business. Some vendors, Dun & Bradstreet® for example, also deliver a credit reporting function to further analyze a company. For most researchers, the credit report is too expensive and too detailed to bother with. Basic descriptive information, however, such as sales, top officers, number of employees, etc., is less expensive to buy from a data broker. All of this information is self-reported by the companies.

Biographical directories: Most of the information in biographical directories, such as Who’s Who®, is self-reported. A small number of celebrities are researched by Who’s Who® because



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Foundation affiliations: The only tax returns that are open to public scrutiny are called 990PFs, and they are filed by foundations. You don't need to go through a commercial data broker to read these, but the data brokers index these tax returns for more efficient searching. Other vendors do additional research about the foundations and publish profiles of them in directory form.

Direct marketing databases: Direct marketers collect data from many different sources and perform statistical analyses to answer the question of who is likely to buy which product. If you are statistically similar to someone who buys golf clubs, you'll probably receive advertisements for golf clubs. This helps the companies that sell golf clubs because they don't waste money advertising their products to people who don't know a fairway from a runway. And it helps the golf aficionado, who learns about the latest new golf gadgets.

The obvious application to fundraising is that you could use this same technique to answer a different question: "who is likely to make which kind of gift to my organization?". The data comes from many sources, including the census, surveys, polls, behavioral research, consumer supplied data (for example, when you register the new software you just bought), magazine subscriptions, and credit.

The bomb in that sentence is "credit." One could imagine prospect researchers checking the credit rating of prospects to see if they "qualify" to make major gifts. **Nothing could be further from the truth.** It is, in fact, inappropriate for a researcher to have direct access to any credit information. There is, however, a way for researchers to use credit information appropriately without violating privacy.

In the last two decades, a number of vendors have created screening tools that apply the lessons of direct marketing to fundraising (including the one contracted by the ACLU). But remember, it isn't screening that is unethical. It was the ACLU's failure to follow its own policy. By including aggregated credit information, along with all the other typical data sources used in direct marketing, these vendors create a statistical profile of someone likely to make a gift to a particular organization. All of the people in the nonprofit's database can then be scored against this model. The credit data for any one person is not revealed, it simply becomes part of a composite "likelihood" score.

Companies that provide this modeling service are collectively known as "screening vendors." There can be much more to the services they offer, but that is a subject for another paper. There are two points to keep in mind with respect to credit data when using a screening vendor. First, even the vendor shouldn't see the detail in a person's credit record. The company only sees aggregated data that groups people with similar credit profiles together. Second, you should request assurance that any credit reporting agency used by the vendor complies with the Fair Credit Reporting Act.

IS IT EVEN WORTH IT?

There are some who might say that ethical and legal guidelines for researchers and vendors



About the Author



David Lamb joined Blackbaud in 2004 following three years as an independent consultant for prospect research. David has more than 20 years of experience in the field, starting at Santa Clara University, where he was promoted to director of development research in his second year. After taking the director of prospect research position at the University of Washington, he led a team that developed their first prospect management system. Under his leadership, the prospect research and management staff grew from four to thirteen. After leaving the University of Washington, he served clients from coast to coast as a freelance prospect research consultant. His Prospect Research Page (www.lambresearch.com) is a trusted and popular resource. David is a frequent speaker at conferences, including those sponsored by the Council for Advancement and Support of Education (CASE), The Association of Fundraising Professionals (AFP), and The Association of Professional Researchers for Advancement (APRA). His areas of expertise include prospect research, prospect management, fundraising, and database systems. In 1997, he received APRA's Service Award for outstanding service to the profession, and in 2001, was awarded the CASE Steuben Apple Award for excellence in teaching. He holds a Bachelor's in sociology from Sterling College, a Master's in sociology from Wichita State University, and a Master's in Divinity from San Francisco Theological Seminary. You can contact David at David.lamb@blackbaud.com. 4

are not restrictive enough. Information that is relevant and truthful may still be too personal to be recorded. They argue that collection of any information, even if it is publicly available, requires too great an intrusion on the prospect's "seclusion" to be tolerated. With social fears about lost privacy and bad publicity for nonprofits, why would a respectable nonprofit want to do prospect research at all? Don't you risk offending major donors by doing research on them? My answer is no.

At a recent fundraising conference, there was a panel of wealthy donors who responded to questions about what it was like to be on the other side of the tin cup. The moderator asked, "What is something that you find annoying as a donor?" Without hesitation, one of the panelists responded, "It's the volume of requests for money from organizations I care nothing about." There was general agreement on the panel about this complaint. Wealthy people are often besieged by solicitations from organizations that need their support. Usually, the only ones they fund are those whose missions involve them personally. The others appeal to them as much as a swarm of annoying flies.

If you don't want your organization to be perceived as an annoying fly, your best bet is to do some research to find out what plucks the heartstrings of your most capable prospects. That way, you can present your project in the light that your prospect will find most appealing.

Another panelist noted that he could tell when a fundraiser had not done his or her homework. "They'll ask for too much or too little." It's almost a cliché in development that if you ask for too little, the prospect will get out her checkbook and write you a check for the amount you requested. It's usually less of a problem to ask for too much, but this still usually results in a smaller gift. The prospect may be flattered, but will probably counter with an amount that is less than his capability. The ideal ask will be an amount that the prospect must stretch to make but is well within his or her capacity. This will make the prospect think long and hard about his or her depth of commitment to your cause, and when the gift is made, the prospect's joy in giving it will be all the greater.

This is the noble role of the fundraiser: to help generous people do the good things they want to do with their money. It is the noble role of the prospect researcher to ascertain the right project and the right amount for the right donor. When that happens, everyone wins.

But let's be clear. Doing your homework does not extend to gathering every scrap of data and gossip that may be available on a prospect. When collecting prospect information, a researcher should be able to answer "yes" to all of these questions:

- Is it truthful?
- Is it relevant to the mission of the organization and the fundraising process?
- Is it respectful of the prospect?

MAKE A STATEMENT

Thanks to legislation like the Fair Credit Reporting Act (FCRA) and HIPAA, privacy statements abound on documents relating to our health care and finances. Most commercial websites have links to the corporate privacy statement. Legislation about what nonprofit

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Charity Navigator® (www.charitynavigator.org) evaluates nonprofits to help donors make informed decisions about which organizations should receive their charitable dollars.

One of the things that Charity Navigator® looks for is whether the nonprofit provides a privacy statement to donors. This statement must “have a donor privacy policy in writing, guaranteeing that they will not sell or trade their donors’ personal or contact information with anyone else. Furthermore, the policy must be prominently displayed on the charity’s Web site or in its marketing and solicitation materials.”⁴

In December of 2004, Charity Navigator® reported on a study of how 3,282 of the nation’s largest charities and nonprofits were implementing their privacy policies, or if they had one at all. The results of the survey became a part of the company’s rating of these organizations. Here’s what they found, as reported on their website:

- 18% have donor privacy policies that the company’s analysts were able to verify (depicted on their ratings page as a latched padlock)
- 7% told us that they either didn’t have a policy or that they hadn’t taken the time to put their policy in writing (depicted on their ratings page as an unlatched padlock)
- 75% choose not to respond to our inquiry (identified on their ratings page with the term ‘no response’)⁵

As concerns about identity theft and erosions in privacy continue to rise, nonprofits can ill afford to be among those whose privacy policy is ambiguous or nonexistent. While the prospect researcher can lead the initiative to publish clear privacy policies, he or she cannot do it alone. Donor privacy must be safeguarded at every level of the nonprofit organization.

The purpose of a privacy policy is to let donors know that you abide by strong ethical standards and you insist that the vendors you hire do the same. It should answer the following questions:

- What information is collected?
- How will the personal information be used?
- How will the personal information be saved? How is it protected? Who will see it?
- Will the personal information ever be disclosed? Shared? Sold?
- Should users expect to be contacted only when permission is granted? Without permission? By third parties?
- When personal information is submitted, is there an implied consent granted? If so, what is implied?
- What other information (e.g. demographic information) may be kept, used, and shared?⁶

Regardless of your answers to these questions, it is essential that your organization’s position on privacy is clearly stated. A rare donor may disagree with your policy and elect to give his support elsewhere. Some may never inquire about it at all and donate generously anyway.

But an ever-growing number of discerning donors are choosing to put their confidence in organizations with a transparent stance on privacy. By declaring and maintaining the privacy of your donors, you will be on your way to earning the ultimate prize — a lifetime of passionate support.

⁴ www.charitynavigator.org/index.cfm/bay/glossary.list/word/DONOR%20PRIVACY%20POLICY/print/1.htm

⁵ www.charitynavigator.org/index.cfm/bay/content.view/catid/68/cpid/238.htm

⁶ www.washington.edu/webguides/guidelines/forms/privacy.html

RESOURCES

TRUSTe® model privacy policy: www.truste.org/docs/Model_Privacy_Policy_Disclosures.doc

TRUSTe® guide to writing an online privacy policy: www.truste.org/pdf/WriteAGreatPrivacyPolicy.pdf

Online Privacy for Nonprofits: How to Protect Members' Privacy and Personal Information: www.privacyrights.org/fs/fs28-nonprofits.htm

The Association of Professional Researchers for Advancement (APRA) has several items of interest, including the APRA statement of ethics and a position paper on privacy: www.aprahome.org/advancement/index.html

The following sample language is excerpted from a handout provided by Lona Farr, partner in the Farr Healey Consulting firm⁷, at the 2004 AFP International Conference in a session on donor privacy:

- “Prospect research enables ABC Charity to obtain highly confidential background and wealth information on prospects and donors. This policy is intended to protect these individual’s privacy, to control the gathering of that information and to control the costs of purchased internet prospect research.
- Prospect research will only be used to gather information about potential ABC Charity prospects and donors and will not be utilized by any other person for any other purpose.
- All requests for prospect research on individuals must be cleared by the Chief Development Officer. It is suggested that the gift potential triggering these requests is anticipated to be in excess of \$25,000.
- Prospect research will only be conducted by a designated advancement officer or the Chief Development Officer. All requests for prospect research will be logged in by this person.
- Only a designated advancement officer of the Chief Development Officer will have the password for any search services purchased for the purpose of prospect research.
- A designated advancement officer or the Chief Development Officer will compile the research information in a composite form to be viewed only by those personnel involved in preparing briefings for meetings and solicitations. This information will be maintained in highly confidential manner.
- This information will not be included in the computerized data available about the donor or prospect. It will be filed alphabetically in hard copy in a filing cabinet which is accessible only to those individuals approved by the Chief Development Officer.
- A code or note in the donor/prospect’s computer file will indicate that additional information is available in hard copy.”

Note — Not every organization will adopt a research policy exactly like this, but these points bear discussion. A point on which some may disagree would be the method of profile storage. Some would argue that if the proper security measures are taken on a nonprofit enterprise database, keeping the donor information in an electronic format is every bit as secure as putting hard-copy documents under lock and key.

⁷ www.farrhealey.com/



About Blackbaud

Blackbaud is the leading global provider of software and services designed specifically for nonprofit organizations, enabling them to improve operational efficiency, build strong relationships, and raise more money to support their missions. Approximately 22,000 organizations — including University of Arizona Foundation, American Red Cross, Cancer Research UK, The Taft School, Lincoln Center, In Touch Ministries, Tulsa Community Foundation, Ursinus College, Earthjustice, International Fund for Animal Welfare, and the WGBH Educational Foundation — use one or more Blackbaud products and services for fundraising, constituent relationship management, financial management, website management, direct marketing, education administration, ticketing, business intelligence, prospect research, consulting, and analytics. Since 1981, Blackbaud’s sole focus and expertise has been partnering with nonprofits and providing them the solutions they need to make a difference in their local communities and worldwide. Headquartered in the United States, Blackbaud also has operations in Australia, Canada, the Netherlands, and the United Kingdom. For more information, visit www.blackbaud.com.

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