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Public Records, Private Lives:

Considerations For Using Probate, Divorce, and Real Estate Records in Research

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Newspaper obituaries. SEC filings on stock ownership. Real estate transactions. *Who's Who* biographical profiles. Personal Web pages. Corporate proxies and annual reports. Divorce judgments. Magazine feature stories. *Standard & Poor's Register*. Probated wills. Dun & Bradstreet business background reports.

All of these are information sources useful to the prospect researcher. All of these are available in the public record, and open to use by any person with access to a library, computer, and telephone. Journalists and paralegals regularly access, without compunction, an assortment of public records in the daily course of their work. Prospect researchers, on the other hand, often pause before looking at the content of, especially, wills, divorce judgments, and real estate ownership records. The same researcher who readily extracts information from a *Vanity Fair* feature article on a prospect's high-visibility divorce, for example, may waver before requesting the documents on the same divorce from a county courthouse.

The Minimalist Approach

Some researchers, like Ellen Bonner, believe that a good researcher can develop a relevant donor profile without looking at court or city

records. Bonner, the director of development services and research at the Boston Symphony Orchestra, has been a researcher for several years and enjoys the work of research. At the same time, she takes what she calls a "minimalist approach." Bonner and her staff believe in getting "the least you need to know to get to the next step of the relationship." For example, finding a magazine article mentioning a donor's home in Boston, summer place on the coast, and ski retreat in Colorado gives a fundraiser tremendous insight into the person's lifestyle and financial resources. The BSO fundraiser usually does not need to know the assessed value and purchase date of the three homes unless, of course, the donor started talking about a possible donation of real estate.

"Just because something is public doesn't mean you have to get it," Elaine Lotto replied, when I queried her about her policy on researching public records. Lotto has been president of her own prospect research firm, Development Research Systems, for over 15 years, and in that time she has researched divorce judgments only a few times, not feeling entirely comfortable with that avenue of research. At the same time, Lotto occasionally looks at probated estate documents and consistently at property assessment and ownership records. While

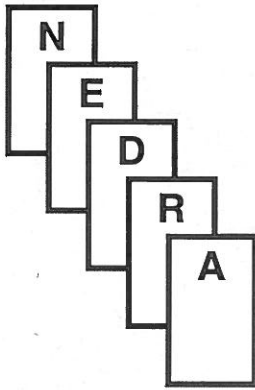
some researchers, like Ellen Bonner, believe that property assessments are generally not relevant to research, Lotto always obtains them, stating that such records are "among the most valuable and easiest things to get." She told me about finding four properties owned by one individual; the total value of his property was \$1.8 million. For many fundraisers, the dollar value of the property is useful to know when working with a potential donor and can motivate the fundraiser to cultivate the prospect.

"Research gives confidence" to the professional and volunteer fundraiser,

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explained Susan Erickson, principal of her own fundraising consulting firm based in Newton, Massachusetts. The financial information present in public documents, like wills and divorce judgments, help a fundraisers confirm a rumor about an inheritance or generous divorce settlement. Erickson herself is comfortable studying the information in these documents yet also understands why some researchers and even some fundraisers may shrink from them:

"We feel uncomfortable looking at public records because it oversteps our normal social bounds."

Civilians, in their private lives, are not in the habit of looking at, say, a neighbor's mother's will or, for that matter, asking a friend for money at lunch. Because fundraising is a fairly young profession, Erickson believes, "we are still coming to terms with the tension between professional needs and normal social bounds." Many other professions, older than fundraising,

have long struggled with these questions and have developed tactics to cope with them. Erickson cites doctors as an example of professionals who have developed a posture for conducting their work, work that by its nature oversteps "normal social bounds." In order for a doctor to perform surgery, for example, he needs to put some psychological distance between himself and his patient, in order to "perform a greater good." The fundraising and research professions have developed ethics codes, but not in place are more subtle tactics for coping with uncomfortable or counterintuitive methods. Erickson believes that for fundraisers to succeed as advocates for nonprofits, they must find ways to become comfortable asking for money and looking at this public

yet personal information.

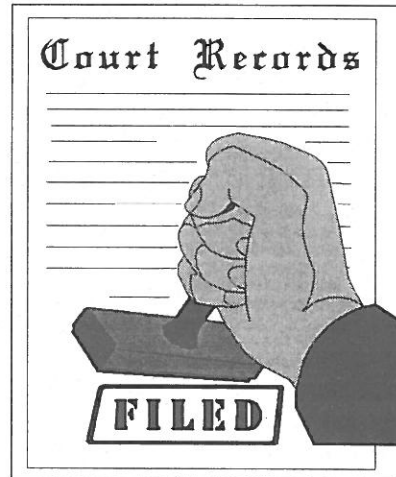
Gauging Donor Reaction

Many fundraisers and researchers, when trying to decide whether to use certain documents in research, use the following litmus test: "How would the donor feel about this if she found out?" Emily Kokernak, a research associate for the Harvard Business School and a former annual fund officer there (and also the

author's relative), has in mind HBS women alumnae when she considers the use of divorce judgments in prospect research.

"There would be a lot of backlash" among women donors at HBS if the business school development office regularly accessed divorce records, imagines Kokernak. HBS female graduates may not necessarily resent the intrusion on privacy, says Kokernak, but, as highly accomplished individuals who want to be treated as persons in their own right, they

Ask yourself, "how would the donor feel about my having this information?"



may resent the HBS treating them as an adjunct to a marriage or a party in a divorce. Ellen Bonner and her BSO colleagues are respectful of donors and do not "put on paper what we wouldn't want donors to see." Helen Bergan, in her book *Where the Money Is* (BioGuide Press), encourages researchers to collect and use public information, including wills and divorce records. Bergan seems to embrace the broadest meaning of "public" and tells researchers that they have no reason to be embarrassed if a prospect discovers the existence of research. All development offices should develop their own codes of ethics, Bergan advises, and she admits that doing anything to offend donors can damage the institution. Still, she imagines that most wealthy prospects are

sophisticated and would not be surprised to find that information about them is being collected in the files of nonprofits.

Susan Erickson disagrees with Bergan's supposition and thinks that many donors would be surprised to learn about the sophistication of prospect research. A few wealthy donors, who are also seasoned fundraisers themselves, are aware of the methods of prospect research and are comfortable with them. Erickson returns to her metaphor of the physician and suggests that just as it may be difficult for many patients to see their medical charts with a physician's notes or photographs of their own surgery, it would be difficult for donors to see their own prospect files. Erickson has worked with a few experienced volunteer fundraisers who are very comfortable looking at donor research; such persons are rare.

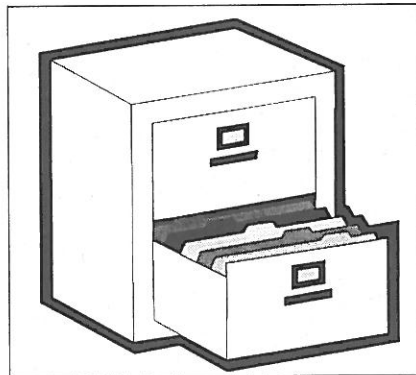
Ellen Bonner told me that the Boston Symphony Orchestra volunteers like to see some research before approaching a prospect for a gift. However, Bonner admitted that this research consists of information that, to the volunteer, appears commonly known. Such "barebones" research, as Bonner calls it, consists of name and address, business and philanthropic affiliations, known giving to other institutions, history of involvement with the BSO, and gifts to the symphony. These bits are enough for the volunteers to feel confident and prepared for their prospect meetings.

All researchers affiliated with an institution should work with the fundraisers in their offices to develop their own code for using the more personal public records. Helen Bergan, in *Where the Money Is*, poses some interesting questions to help elicit a fruitful discussion. NEDRA and APRA have developed codes of ethics; APRA's code states "Information sought and recorded may include all public records," but another section addresses the issues of relevancy and confidentiality. With every research profile, a researcher should get into the habit of asking: "Is it relevant to get this document for this stage of the relationship?" Ellen Bonner and her research staff elicit from the fundraisers exactly why they need certain

information, and at what point of readiness is the donor. This dialogue guides the research.

A researcher's respect for his subjects may also explain a reluctance to search sensitive documents, especially divorce records. This same respect for donors could also lead the researcher to thoughtfully seek relevant documents, even a divorce judgment, in order to further a relationship that will provide the right giving opportunity

Ultimately, you'll have to develop your own code for using more personal public records.



for the donor. Indeed, a search for a prospect's divorce record may be relevant: Elaine Lotto described one instance where she called the court inquiring about a divorce, and the clerk, over the telephone, looked at the final judgment and told her that the woman received one third of her husband's company, in addition to monthly child support payments. Knowing this type of information can assist a fundraiser in preparing for a meeting with this woman by studying strategies for donating private-company stock that would benefit the woman donor and the institution. Such information, respectfully gathered, may allow this donor to make a more satisfying gift than she would have imagined on her own. That is the greater good.

What to Look for and Where to Find It:

Here are some tips and directions for accessing and examining probate, divorce, and real estate records.

Probate Records:

After an individual dies, her estate is administered by the Probate Court of the county in which she resided when she died. (*The Sourcebook of County Court Records*, see "Resources," locates the county court's phone and address quickly.) Before making a query, know the person's name, address at time of death, and date of death (at least month and year). Call the county court, ask for Probate, and tell the clerk that you want to obtain photocopies of the following documents: last will and testament, inventory, and first and final accounting. The will outlines the person's intention for the distribution of her assets; the inventory and first and final accounting will itemize the actual type and amount of assets. The clerk will tell you the availability of the documents and the charge for copying them.

When should you request probate records? Elaine Lotto told me that she occasionally suspects that a deceased parent or grandparent of a prospect may have left a sizeable estate. Clues she looks for include: an obituary notice in the *New York Times*; an article on a private family company founded by a parent or other ancestor; or an address in a wealthy enclave. Sometimes clients tell me that they suspect a prospect is part of mega-rich family. I also become curious when I find a younger prospect living in a million-dollar home yet listing his occupation as "writer" or "yoga instructor" or another low-earning profession. These contradictory factors lead me to wonder about inherited wealth.

Remember, says Lotto, "the very rich have probably taken steps to keep assets out of their estate, and therefore out of their will. Many wealthy people probably have trusts to accomplish that, and they may give away many assets in their lifetimes to reduce the size of their estates, to lower the eventual

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taxes. A will and inventory may be only the tip of the iceberg." True, indeed, but it's still worth examining the wills of the very wealthy. A will of such person usually refers to the trust, so you can make the assumption that the person left "at least six figures," Susan Erickson, also a planned giving expert, told me. The inventory of such an estate sometimes itemizes the interest income from a trust, and a lawyer on your board may be able to look at that for you and extrapolate the size of the trust's principal. Also, wealthy individuals sometimes use their wills to leave smaller bequests to charities; I looked at one recently that listed several gifts of \$10,000 each. All wills give many clues to family and friend relationships, if nothing else.

Divorce records:

Like estate documents, divorces are also recorded at the county level (sometimes circuit level, in some states). Call the county or circuit court clerk and ask to be directed to divorce records. Often the Family Court division oversees divorces. Talk to a clerk there and explain that you would like to inquire about a divorce in their jurisdiction, and name the parties involved and local address(es) at the time of the divorce. If the divorce decree is final, request photocopies of the final judgment

and financial statements. The financial statements are very useful: they are like tax returns, itemizing income and assets of both parties. Before jumping into this type of research, you may want to look at a popular divorce do-it-yourself book, like *The Complete Idiot's Guide to Surviving Divorce* (Alpha Books), to get a sense of what you can expect to find in these records.

Please note that divorce judgments are public in almost every jurisdiction, with a few exceptions. Elaine Lotto remarks that, in New York City, access to divorce records is limited to the parties involved or the attorney of record. Helen Bergan's book cautions researchers that, in some jurisdictions, "divorced persons must be notified that someone is seeking information from those records." Bergan recommends the inexpensive U.S. government publication, *Where to Write for Vital Records* (see "Resources"), which explains how to get birth, death, marriage, and divorce records, and describes any restrictions on who can get which records.

Property Assessments and Ownership:

Both local municipalities and counties record information on real estate transactions and property values. I customarily use the information recorded at the local town or city level, usually

maintained in the assessors office. Call the town or city hall and state that you would like the assessed value and name of owner-of-record for a property in the town. More and more assessors' offices are going online, so ask the clerk if you can access their database over the Internet. Also find out the rate at which the town assesses property: full market value, or a percentage of market value.

Many researchers avoid getting property values for the homes of wealthy prospects, especially when research has already uncovered chunks of publicly-traded stock, or a multi-million-dollar private company. I always get them, because property records are a great way to find out a spouse's name (if the spouse is a co-owner) or a middle name or initial. Once I found that the owner-of-record for a prospect's Florida home was an investment partnership; this was news to me, and when I researched that lead I found another source of wealth for the individual.

Some researchers and fundraisers may have a difficult time deciding whether to use more sensitive yet publicly available information. It ultimately comes down to the individual's and organization's comfort level with putting such information to use. ■

RESOURCES

***The Sourcebook of County Court Records* edited by Carl R. Ernst and Michael Sankey; BRB Publications Inc., Tempe, AZ: 1997.**

This 656-page book has information and contact addresses and telephone numbers for all of the county courts in the United States. This is an excellent resource and time-saver for researchers who regularly call county courts for divorce records, wills, and even civil court documents.

Call the publisher at 800-929-3811 to order this \$35.00 book.

***Where to Write for Vital Records.* Government Printing Office, Consumer Information Center, P.O. Box 100, Pueblo, CO 81002.**

This 32-page booklet, for \$2.25, includes lots of information on where to find vital records (including divorce records) and any restrictions on accessing.

You can also order with a credit card by calling 202-512-1800.

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