

When confidential documents like medical forms or school records are tossed into the trash, they could be exposing...

YOUR SECRETS



Gordon Williamson/Orlando Sentinel Star

Sailors from Orlando (Fla.) Naval Training Center search through garbage for classified material mistakenly sent to a dump instead of the shredder.

by Ralph Keyes

In a trash carton outside their West Orange, N.J., elementary school, two sixth graders found—in addition to some old drumsticks and crayons—report cards, test scores, a recommendation for psychological counseling, and parent-teacher conference notes. “I didn’t even know they took notes,” says Mrs. Karen Zolin of the reports her son George found describing her conferences with his teachers. “Now I’m pretty careful what I say.” Embarrassed school officials have promised to take more care when disposing of student files in the future. Mrs. Zolin thought they should have done so in the first place.

Similar cases of confidential information being put out with the trash recur with disturbing frequency throughout this country and the world. In Philadelphia, medical records found blowing about Broad Street one day

showed up as a newspaper photo the next. In Australia, an elementary school art class was given computer printouts to draw on. On the other side were confidential records of a Sydney law firm.

Having created an “information society” based on voluminous private records—medical forms, school records, insurance reports, payroll lists, credit checks, tax returns—we’re now faced with the problem of disposing of such records.

What happens to confidential paperwork once it’s no longer needed? Often it’s simply left to the tender mercies of the trashman—and whoever else might be interested.

Once, not long ago, lawyer Robert Ellis Smith and I found hundreds of IBM cards blowing about our feet outside the House of Representatives office building in Washington. Each card was neatly imprinted with an employee’s name, pay grade and social

security number. "I call it 'information pollution,'" says Smith, who publishes *Privacy Journal*. "It's a worldwide problem. We've got so much information floating around that some on the fringes is bound to flow over and do us harm. It's like nuclear waste. We just don't know how to dispose of it."

Last February, 50 notebooks containing classified information from the Orlando (Fla.) Naval Training Center accidentally ended up inside a 25-foot-high trash mountain at a landfill outside Orlando. Soon this mountain was being scaled by teams of sailors who daily braved the rain, stench and sea gulls to look for the documents. Within a week, less than half of the missing material had been recovered, so the Navy had the mountain plowed under, hopefully burying forever the classified information.

Private trash collection is not necessarily a safer alternative. When the Credit Bureau of Jamestown, N.Y., turned over several bags of bill collection printouts to a trash collector, they ended up in Bath, Ohio, where they had been sent as packing material for a shipment of metal products. Credit Bureau Manager William Hartweg subsequently had the reclaimed records shredded and burned.

This episode, Hartweg says, revealed to him a problem he didn't know he had. In fact, this lack of awareness lies at the heart of our private-waste vulnerability, and the consequences can be costly. In San Francisco, the police department warns stores and private citizens alike about the danger of putting financial records in their trash—credit carbons in particular. Bay Area criminals, it seems, rummage through garbage cans for credit receipts with card numbers that they can use to order merchandise by phone.

There is also, of course, the right-to-privacy issue. Once credit or similar information has been made public—by trash-picking or any other means—it "can be used to create a mosaic of the individual involved," says David Linowes, chairman of the U.S. Privacy Protection Commission, a mosaic that can be used "to harass or intimidate that individual."

American courts have repeatedly been asked to pass on the legal status of trash. Some such decisions—particularly in California—have held essentially that garbage remains private property until taken to the dump. But most courts have ruled otherwise.

As a federal appeals court explained in a recent decision: "In the real world, to so view one's discarded trash [as private property] is totally unrealistic, unreasonable and in complete disregard of the mechanics of its disposal. It is common knowledge—at times due to the unfortunate circumstances of some persons or even just for curiosity or mischief—that others may disturb one's trash...It therefore seems prudent to put out only genuine trash, not secrets, in garbage cans—except perhaps in California."

Given the nature of curious neighbors, children, reporters, private in-

vestigators, the police, ragpickers, blackmailers, dogs, raccoons and the wind, it is probably not a good idea to assume that private trash will go discreetly to the dump.

Individuals and institutions must develop better means of destroying records that shouldn't be made public. This calls not only for having guidelines for such destruction, but making sure these guidelines are observed. In Canada, 3600 pathologists' reports recovered from the streets of Toronto were traced to a hospital that (a) owned a shredder but hadn't used it; (b) had an informal policy of at least tearing such reports in half, a policy not observed when clerks got "too busy"; and (c) employed a private trash collector to haul such records in sealed bags. He did this on an open truck. On the day in question, one bag fell off the truck and split open in a 30 mph wind, releasing its information about cancer tests, miscarriage analyses, abortions and the like complete with names and addresses of the patients being treated.

In a just-issued report, the Ontario Commission on Confidentiality of Health Information cites this among many cases and recommends not only that private medical records be destroyed when no longer needed, but that logs be kept to confirm their destruction and secure areas created to protect records not yet destroyed.

No such recommendation has been made by the U.S. Privacy Protection Commission or any related body. Nor does David Linowes recall hearing waste disposal discussed at any of the international conferences on privacy that he's attended.

Is the problem too new, or perhaps not dignified enough, for official consideration? At present, the disposal of private records is largely left up to the individuals, companies or agencies involved. We've seen some of the unhappy results.

But not every result is unhappy. The United States Internal Revenue Service, for example, has strict guidelines governing the destruction of old tax returns and related materials. These guidelines call for moving such records only under seal and even specify the degree of necessary destruction (quarter-inch strips for paper, 1/35th-by 3/8ths-inch ribbons for microfilm).

Some recycling companies have begun to offer guaranteed destruction of confidential documents. One such company is the American Scrap and Waste Removal Company of Wilmington, Del., which uses closed trucks and bonded employees to pick up private records for pulping and recycling. Although most of American's customers are institutional or professional, they also will destroy personal records at \$25 per carload.

Burning, shredding, careful ripping or guaranteed recycling are the only dependable means to destroy private personal records. **P**

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