

ADITUS AD ARCHIVUM:
EXPLORING ACCESS TO CATHOLIC DIOCESAN ARCHIVES IN CANADA

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Abstract

The dioceses of the Catholic Church in Canada are the spiritual and administrative centres of Canadian Catholicism, which has long been the largest religious community in the country. Their archives are thus particularly important to the church and wider society, given the church's profound impact on Canadian life. Yet access to them has usually been limited. *Aditus ad Archivum* is a study of the complexities of access to the archives of these seventy-two administrative centres of the Catholic Church across Canada. Access to Canada's Catholic diocesan archives has been and continues to be influenced by diverse, overlapping, and sometimes seemingly contradictory factors. A full picture of these factors -- their history, contexts, laws, policies, recommendations, and the resource limitations and other practical realities of Catholic diocesan archives in Canada -- does not yet exist. This thesis provides an overview to help fill that gap.

This study further addresses these factors by introducing the concept of *active access*, which offers a vision and means of support for greater access to Canadian diocesan archives. The practical implications of applying active access are explored through an examination of how Catholic dioceses in Canada provide information about their archives on the internet. One main conclusion is that overarching church archival policies encourage and permit greater access than is provided by most dioceses. This thesis proposes ways for dioceses to act on those policies.

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Introduction

Aditus ad Archivum, Latin for access to the archives, is a concise summary of the explorations contained in the following chapters.¹ The use of a Latin phrase is meant to situate this study of access to the archives of Catholic Church diocesan bodies across Canada in the heritage of the Catholic Church, which is the primary influence on how access to these private, corporate archives is administered. Yet a multitude of additional factors shape access to each diocesan archive, including: Canadian history; Canadian law; modern recommendations from the pontifical curia, diocesan archivists, and diocesan administrators both internationally and within Canada; professional organizations; available resources; and individual experience and subjectivity alongside Catholic institutional history and canon law.

This diversity of influences has meant that there is very little consistency in how archival access information is provided to potential researchers by individual dioceses across Canada, or even how dioceses represent the possibility of access to diocesan records. There is also no existing study on the pan-Canadian context for access to diocesan archives, or what various international, national, and regional influences mean for both access policy and practice. The purpose of this study is to synthesise the existing information on history, context, laws, recommendations, and the real practice of providing access information, and from there provide recommendations for access policies, practices, and access information provision.

¹ This Latin phrase is used to call to mind the Catholic tradition of Latin titles for major formal documents, usually the first few words of the text. In the case of this thesis, it is meant to bring to mind the central theme of access to the archives of the bishop and diocese.

This study is a first step toward a deeper examination of access practice among Catholic diocesan archives in Canada. As such, it largely provides general information and only a few specific studies of individual aspects of access. It is not meant to assess users' overall experiences of access from start to finish, nor is it meant to provide case-by-case analysis of litigation involving Catholic entities for which Catholic records were involved. This study is meant to provide the base of general, pan-Canadian knowledge surrounding access to Catholic diocesan archives so that in the future those sorts of studies may be possible. It is also not meant to provide a comparative examination of Catholic practices with other religious administrations' archival access processes, nor with secular corporate entities. Again, broad information about the Canadian Catholic archival access framework needs to be produced before these comparisons can occur, and that general collection of information in one place, and basic recommendations for improved strategies based on that information, is the purpose of this project.

Since colonial times, the Catholic Church has had a profound effect on Canadian history. The proper care of and access to its archives are therefore significant concerns, not just for staff members or active Catholics of each individual diocese, but for the wider Canadian public as well. In addition to recording the administrative histories of each particular diocese, the records of Catholic dioceses also hold the stories of a variety of social movements, services, individuals, and experiences that cover the entirety of Canada's history since European contact.

The following pages provide a broad-spectrum approach to the forces informing access practices for these archival bodies, which include Roman Catholic diocesan and archdiocesan records, as well as the records of Eastern-rite Catholic exarchates, eparchies

and archeparchies. There are eighteen Roman Catholic, otherwise known as Latin rite, archdioceses across Canada, and forty-four Roman Catholic dioceses. There is one Ukrainian Catholic archeparchy and four eparchies, as well as one eparchy each for the Greek-Melkite rite, the Maronite rite, and Slovak Catholics of the Byzantine rite. There are also two Apostolic Exarchates² in Canada, one for the Syro-Malabar rite and the other for Syriac Catholics, bringing the total of individual Catholic ecclesiastical corporations in Canada to seventy-two.

Catholic dioceses are the administratively self-contained governing units of the Catholic Church. The next administrative step up from a diocese is an archdiocese. Bishops are the spiritual and administrative heads of their own dioceses, and archdioceses are governed by an archbishop. In the Byzantine or other Eastern-rite Catholic churches, eparchy is the title equivalent to diocese, and an archeparchy is the equivalent of an archdiocese. These distinctions exist and are important in recognizing that archdioceses have slightly more administrative power than dioceses, however while occasionally these individual terms might be mentioned in the following study, the use of “diocese” is meant to encompass all of these diverse Catholic Church ecclesiastical corporations, whether Western-rite or Eastern-rite, unless explicitly stated otherwise.

The intention behind this project is to bring together information about gaining access to Catholic diocesan records across Canada, and in doing so shape a progressive access strategy that could contribute to establishing standards for the way in which information about access, and access itself, is provided by Catholic diocesan archival

² Apostolic Exarchates are ecclesiastical corporations in the Eastern rites of the Catholic Church, equivalent to the Apostolic Vicariates of the Western rite. Exarchates are usually smaller than dioceses, overseen by individual bishops but under the larger purview of the Holy See rather than being their own autonomous administrators.

administrators across the country. This study is not meant to produce concrete guidelines for real practice, but through examining history, context, laws, policies, and real practice, it is possible to adjust our perception of the theoretical framework that takes shape from the multiple interacting forces.

By drawing out the notion of actively providing access and information about access, and by providing connections to this approach among existing theoretical and practical recommendations for how access to Catholic diocesan archives in Canada are administered, I develop a framework for assessing the ways in which access is and could be provided by diocesan archival repositories. This model emphasizes the general need to move from passive permissions (and even non-permittance) by diocesan bodies to active provision of access information on the part of the archivists and others responsible for the care of Catholic diocesan archives in Canada. This thesis is structured into four chapters, each of which is outlined below, in order to best provide this information.

This first chapter, “An Historical and Contemporary Overview of Catholic Diocesan Archives in Canada,” provides an overview of the existing writing about Catholic diocesan archival practice and the history of archival administration in the Catholic Church, both centrally at the Vatican and across Canada. The chapter includes a brief summary of the hierarchy of access for what are essentially private corporate and personal documents that can also have wider historical value, and concludes with perceptions about access to Catholic diocesan archives today and how these can affect the Canadian context of actual access provision.

The second chapter, “Archival Applications of Canon Law, Legislation, and Case Law,” covers the complex legal situation of Canadian Catholic diocesan archives within

the Canadian legal system and well as internally under Catholic canon law. In order to obtain access to the records within Catholic diocesan archives, one must navigate through these overlapping structures, and also be aware that provincial legislation in each jurisdiction differs in how and when it affects the archives of private corporate structures such as diocesan archives. Descriptions of how and when the Canadian and canon legal frameworks apply to diocesan archives are provided.

The third chapter, “Recommendations and Resources for Diocesan Archival Policies and Practice,” outlines the most directly influential or useful resources for policy development and real practice regarding access to Canadian Catholic diocesan archives. This includes both international and Canadian resource materials. The immense value of professional organizations for diocesan archivists is also discussed. Diocesan archivists are often “lone arrangers” in cases where a dedicated archivist even exists as part of a diocesan office staff, instead of archival administration being among an alternate administrator’s multiple responsibilities. The ways in which external resources are available to support diocesan archival policy and practices are examined. The idea of recognizing and applying an active approach to access provision is introduced and threaded through the chapter.

The final chapter, “Practical Realities and the Application of an Active Access Framework,” provides reflections on how archivists and archival administrators can more actively consider access outcomes while providing information to potential archival users and carrying out archival functions. The chapter distills the ways in which the influences of historical and modern contexts, legal structures, as well as written and interpersonal resources can be used in practical, positive ways to carry out better archival access

service. A case study of the archival access information provided, and not provided, on the websites of the seventy-two Canadian Catholic dioceses is presented, as is an examination of the use and potential use of multi-institution regional archival databases.

Overall, this study provides a synthesis of the current information available regarding provision of access to Catholic diocesan archives across Canada, as well as recommendations on how to manage the influences of diverse factors on access in a proactive way. The following study contributes to the literature on diocesan archives by providing a detailed pan-Canadian overview, as well as a general examination of the publicly visible applications of access policy. While the access information provided via diocesan websites has increased over the last six years, the availability of information is inconsistent between dioceses. I argue that an active approach to access is more valuable and practical than one that is passive, and that the actions of archivists for Catholic dioceses would benefit from a more consistent and active approach to providing access and information about access.

Chapter One: An Historical and Contemporary Overview of Catholic Diocesan Archives in Canada

Before it is possible to analyze the laws, policies, and practices that shape Catholic diocesan archives in Canada, one must look at the history and current context that encompass these factors. How have Catholic dioceses developed as administrative bodies within Canada? Who is in charge of their archives? Who creates the laws, policies, and practices that shape these diocesan archives? What factors impact what is shared (or not) by those in control of access to diocesan archives? Who would want to use these archives, and why? These are all important questions that need to be answered in order to better understand the context of access to Catholic diocesan archives in Canada, and the following pages will provide the necessary explanations.

Previous Writing on the Subject

There exists very little writing regarding access to Canadian Catholic diocesan archives, particularly in the national context. The following section will outline what has been published on Catholic diocesan archives, both in Canada and abroad, and indicate the limitations of each when it comes to exploring access to the archives of these administrative entities in Canada on a national scale. This outline will provide the evidence of the gap in the literature that the following study will fill.

Saint Paul University's Research Centre for the Religious History of Canada in Ottawa compiled the *Abridged Guide to the Archives of Catholic Dioceses in Canada*, released in 1981, but it does not address the many issues surrounding access to these institutions.¹ It provides the contact information current for that time, and some basic

¹ Research Centre in the Religious History of Canada. *Abridged Guide to the Archives of Catholic Dioceses in Canada* (Ottawa: Université Saint-Paul, 1981).

information, but it has very little supplementary information and is now somewhat outdated. However, as an abridged guide, its purpose is not really to examine access, but rather to compile basic information. As such, it is a valuable resource for understanding the state of Catholic diocesan archives at that point in time.

In 1990, Kevin E. McKenna wrote a dissertation for a Doctorate of Canon Law at the University of Ottawa on the topic of confidentiality for diocesan clergy personnel records, addressing Catholic ethics and canon law codices relating specifically to that type of record.² This is a useful work for understanding one particular type of record and Catholic teachings about the right to privacy, but it provides little information about archival access specifically, as that is beyond McKenna's scope and purpose. However, individual record types and the deep examination of canonical privacy in McKenna's thesis are important to consider in relation to diocesan archival access, as they inform the wider attitudes toward diocesan archival access.

Probably the most informative recent writing on the subject is a 2009 guide by L'Assemblée des chanceliers et chancelières du Québec regarding the archival patrimony of the Catholic Church, specifically in Québec, which provides some updated guidance regarding diocesan archival access in the Canadian context.³ While this study is only focused on one province, it does provide a useful starting point for looking at the Canadian diocesan archival situation as a whole. A deeper examination of this document will follow in subsequent chapters.

² Kevin E. McKenna, "The Right of Confidentiality and Diocesan Clergy Personnel Records" (Doctor of Canon Law diss., University of Ottawa, 1990).

³ Assemblée des chanceliers et chancelières du Québec, *Les archives ecclésiales, diocésaines et paroissiales: Patrimoine archivistique de l'Église catholique – Origine, Conservation, Perspective*, Gratianus Series, ed. Ernest Caparros (Montréal: Wilson & Lafleur Ltée, 2009).

Some smaller case studies have also been done for individual diocesan archives such as Toronto and Rimouski. These provide some consideration of access, but studies of individual dioceses do not address the national situation, despite providing information which may indicate broader national trends in diocesan archival practice.⁴

There has also been some writing on access to religious archives in Canada more generally. Pierre Hurtubise, now the Research Chair for the Religious History of Canada at Université Saint-Paul University,⁵ addressed the issue of assuring the future of religious archives in 2008.⁶ He discusses Catholic archival collections as a whole, beyond just diocesan records, and examines access as part of the broader archival enterprise, though the piece does not really deal with the complexities surrounding access to religious archives, nor the unique complications of accessing diocesan archives specifically.

A notable focus on access can be found in Shelley Sweeney's 1990 article "An Act of Faith: Access to Religious Records in English-Speaking Canada," which includes survey responses by Roman Catholic archivists among those of other denominations.⁷ In contrast to other studies outlined here, this article deals more exclusively with access. However, Sweeney takes a general approach that does not address the access issues facing specific religions and denominations, and does not discuss the vast historical records of French-speaking Canada. For a truly national study of Catholic diocesan

⁴ Sylvain Gosselin, "Les Archives des diocèses catholiques du Canada", *SCHEC - Études d'histoire religieuse* 61 (1995): 63-79. Linda Wicks and Marc Lerman, "The Archives of the Roman Catholic Archdiocese of Toronto," *Archivaria* 30 (Summer 1990): 180-184.

⁵ "Research Chair for Religious History of Canada – Home", *Université Saint-Paul University*, accessed 4 March 2015 (http://ustpaul.ca/en/chair-for-religious-history-of-canada-home_1516_405.htm).

⁶ Pierre Hurtubise, "Le Devoir de Mémoire: Pourquoi il faut assurer dès maintenant l'avenir de nos archives religieuses," *Studia Canonica* 42, no. 2 (2008): 319-330.

⁷ Shelley Sweeney, "An Act of Faith: Access to Religious Records in English-Speaking Canada," *Archivaria* 30 (Summer 1990): 42-54.

archives, it is necessary to consider both English and French records, as well as the notable number of Ukrainian records from the Ukrainian Catholic eparchies across the country.

In dealing with Canada as a whole, *Perspectives on Religious Archives* is a useful general source.⁸ This edited collection of papers is made up of several presented at the Canadian Religious Conference Archivists Group (now the Catholic Archivists Group) conferences between 1982 and 2002. While the collection deals with a range of topics, none specifically focused on diocesan archives, the essays on writing history from archives help to provide information on researchers' experiences of Catholic archival institutions. Furthermore, Eileen Schuller's paper "Biblical Models for Archival Ministry" and Thomas Cassidy's "Canonical Aspects of Confidentiality and Privacy" help to illuminate internal attitudes towards archival access practices.

Outside of the Canadian context, there are writings on Catholic diocesan archives that address access in the United States, Ireland, Italy, and other countries. Due to the international application of canon law within the Catholic Church, the history of diocesan archives and access to them in other countries that have a multi-diocese Catholic Church presence becomes relevant. Publications on the history of diocesan archives in the United States are particularly helpful due to the close physical situation and intertwined colonial heritage of the two nations.

Notable works out of the United States that provide a solid early historical outline are two theses completed for Doctorates of Canon Law at the Catholic University of

⁸ Linda Wicks and M. C. Havey, eds., *Perspectives on Religious Archives: Selected Papers Presented to the CRC-O Archivists Conferences 1982-2002* (Canada: CRC Archivists Group - Canadian Religious Conference, 2003).

America: *Diocesan Archives: A Historical Synopsis and Commentary* by William Francis Louis in 1941 and *The Secret Archives of the Diocesan Curia: A Historical Synopsis and a Commentary* by Charles A. Kekumano in 1954.⁹ Both theses discuss early papal bulls regarding diocesan archives, which both authors and many others argue are the foundational documents for the rules on archives in canon law. The main sources are Pius V's *Muneris nostri* (1571), Sixtus V's *Provida* (1587), and Benedict XIII's *Maxima Vigilantia* (1727). Both authors provide helpful English-language summaries of the archival purposes of these Latin documents. Analysis of archival directives set forth by various church councils from the 1500s onward are also valuable. These theses are extremely useful for understanding how canon law on archives was developed, though are outdated in light of the updates to canon law structures promulgated in 1983.

American, Irish, Italian, and other nations' archival publications can provide additional information on Catholic archival practice where there are gaps in the Canadian writing, such as articles by James O'Toole and Christine Taylor published in *U.S. Catholic Historian* in the 1998 special issue on "The Local Church: Archivists and Historians."¹⁰ O'Toole wrote "Diocesan Archives: 25 years of Preserving Catholic History," which tracked formal preservation programs for Catholic diocesan archives in the United States from the 1970s through the 1990s. Taylor's article, "Diocesan

⁹ William Francis Louis, *Diocesan Archives: A Historical Synopsis and Commentary*, The Catholic University of America Canon Law Studies No. 137 (Washington, D. C.: The Catholic University of America Press, 1941) and Charles A. Kekumano, *The Secret Archives of the Diocesan Curia: A Historical Synopsis and a Commentary*, The Catholic University of America Canon Law Studies No. 350 (Washington, D. C.: The Catholic University of America Press, 1954).

¹⁰ James M. O'Toole, "Diocesan Archives: Twenty-Five Years of Preserving American Catholic History," *U.S. Catholic Historian* 16, no.1 (1998): 1-13 and Christine Taylor, "Diocesan Archivists: Models for Stewardship," *U.S. Catholic Historian* 16, no.1 (1998): 15-22.

Archivists: Models for Stewardship,” looked into the practical work of Catholic diocesan archivists in the U.S. based on the results of a 1993 survey and subsequent activity.

In a 2007 issue of *The American Archivist*, Nicholas J. Tussing wrote “The Politics of Leo XIII’s Opening of the Vatican Archives: The Ownership of the Past”, which helps address some of the historical context for access to diocesan archives by exploring the Vatican’s example for the rest of the world.¹¹ *Archives & Archivists*, a 2006 Irish publication, includes an essay by Marianne Cosgrave and David Sheehy titled, “The Preservation and Management of the Archives of the Roman Catholic Church in Ireland, 1850-2005”. It provides useful alternate experiences to examine as well.¹² The article is based on the premise that “the church’s archives are far broader in scope and more far-reaching in their significance as an archival resource,” than people realize.¹³ It traces the history of archival structures for Catholic diocesan bodies in Ireland, and concludes with recommendations on archival responses to clerical abuse cases in Ireland.¹⁴

Two broad-spectrum pieces of writing from non-Canadian sources that have practical relevance in Canada are O’Toole’s 1991 guide *Basic Standards for Diocesan Archives* and Gerard Mesure’s 1995 thesis for a Licentiate of Canon Law at the Catholic University of America, *Access to the Diocesan Archive*.¹⁵ Both provide access-specific information, and cover much more recent circumstances than the Louis and Kekumano

¹¹ Nicholas J. Tussing, “The Politics of Leo XIII’s Opening of the Vatican Archives: The Ownership of the Past,” *The American Archivist* Vol. 70 (Fall/Winter 2007): 364-386.

¹² Marianne Cosgrave and David Sheehy, “The preservation and management of the archives of the Roman Catholic church in Ireland, 1850-2005,” *Archives and Archivists*, edited by Ailsa C. Holland and Kate Manning (Dublin, Ireland and Portland, Oregon: Four Courts Press, 2006).

¹³ *Ibid.*, p. 76.

¹⁴ *Ibid.*, pp. 84-87.

¹⁵ James M. O’Toole, *Basic Standards for Diocesan Archives: A Guide for Bishops, Chancellors, and Archivists* (Chicago: Association of Catholic Diocesan Archivists, 1991) and Gerard Mesure, *Access to the Diocesan Archives* (The Catholic University of America: Canon Law Studies, Washington, D.C.: 1995), micropublished Portland, Oregon: Theological Research Exchange Network, 1995.

dissertations. O'Toole's guide was truly a landmark handbook from this well-published and insightful academic on the practicalities of working in a diocesan archive in North America. O'Toole's *Basic Standards* was published by the Association of Catholic Diocesan Archivists (ACDA) and includes suggested policies and forms to be used. From an access standpoint, it includes as an appendix the ACDA's "Guidelines for Access to Diocesan Archives" as drafted by its Standard Access Policy Committee and adopted by the ACDA executive board in 1991. Measure's thesis addresses the difference between the 1917 and 1983 codes of canon law regarding archives, and further addresses the canonical right to privacy as it could apply to diocesan archival records. His focus on access makes his work extremely useful, but the United States context means that some of information provided is outside the scope of a Canadian study.

Finally, another impressive international resource is the 2001 collection *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione*, edited by Angelo Giorgio Ghezzi.¹⁶ This Italian collection of writing on Catholic Church archives also includes extensive scholarly resources as appendices, including the text of church directives for various levels of ecclesiastical archives dating back to the 1500s. The accumulation, in one place, of so many historical texts makes the collection a valuable contribution to the international literature on its own, but the accompanying scholarly articles, while providing a more specifically Italian viewpoint, do tackle issues of both historical and modern importance for Catholic Church archives. Additionally, given the Italian location of the central administration of the Catholic Church, the information in the scholarly

¹⁶ Angelo Giorgio Ghezzi, *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione*, (Milano: I.S.U. Università Cattolica, 2001).

articles does provide useful background context for developments in Catholic Church archival policies and practices throughout time.

While helpful to consider and compare the Canadian experience of diocesan archives with other national contexts, the major complication with relying on American and other international studies is the differences in local factors affecting access practices. Because archivists from different countries work within differing national archival frameworks they often receive different styles of archival training. Furthermore, the civic legal structures (national, provincial, and local) affecting archives in Canada have a different impact from those of other countries.

While all of the American work described above is informative, it is only partially or tangentially related to access to Catholic diocesan archives in Canada. Furthermore, it is for the most part outdated and in need of revisiting, especially in light of the Vatican's 1997 circular letter to dioceses on the pastoral function of church archives, as recommended by the Pontifical Commission for the Cultural Patrimony of the Church, which encouraged a more open approach to access for Catholic diocesan archives around the world.¹⁷ That particular document, as well as the 2009 Québec guide, will be considered in more depth in later chapters.

Historical Context

The history of archiving within the Catholic Church in Canada dates back to the earliest contact of Europeans with North American peoples and the spaces that would become known as Canada. Records of early missionaries and chaplains accompanying

¹⁷ Pontifical Commission for the Cultural Patrimony of the Church, *The Pastoral Function of Church Archives* (Vatican City: 2 February 1997), <http://www.vatican.va/roman_curia/pontifical_commissions/pcchc/documents/rc_com_pcchc_19970202_archivi-ecclesiastici_en.html>, accessed 16 August 2014.

fishing and exploratory voyages were kept from the earliest time, as record keeping and archiving by the Catholic Church already had an extensive history in Europe.¹⁸ However, as historian Terence J. Fay summarizes, the Canadian Catholic Church was “underorganized in missionary periods,” so the record keeping of the time was certainly not the same as in later eras.¹⁹ The practice of specifically *diocesan* archiving in Canada only came with the establishment of the first diocesan administrative body on Canadian soil. While this thesis does not explore the problematic nature of establishing European Catholic administrative governance over territories occupied mainly by Indigenous peoples, nor the relationship between the Catholic church and the secular colonial enterprise, these are issues worth noting. These subjects are complex topics beyond the scope of the present work, but the nature of European secular and religious claims over North American spaces are necessary to remember as part of the contextual overview.

As of 1622 the Catholic Church in Canada answered to the newly created Sacred Congregation “de Propaganda Fide,” whereas independent missionaries and clerics had previously gone to Canada with simply the acquiescence of their local superior.²⁰ In 1658, a more formal and direct governance of the Canadian Catholic church fell under the jurisdiction of François de Laval, who was appointed Apostolic Vicar for New France. He arrived in 1659 with the powers of bishop, though complications from the

¹⁸ Terence J. Fay, *A History of Canadian Catholics: Gallicanism, Romanism, and Canadianism* (Montreal & Kingston, London, Ithaca: McGill-Queen’s University Press, 2002), 5.

¹⁹ Fay, xiii.

²⁰ Luca Codignola, *Guide to Documents Relating to French and British North America in the Archives of the Sacred Congregation “de Propaganda Fide” in Rome, 1622-1799* (Ottawa: National Archives of Canada, 1991), 2, 5.

Archbishop of Rouen's claims to jurisdiction over Catholics in French Territories in the "new world" resulted in Laval being denied the official title of bishop for a time.²¹

As of 1 October 1674, Laval was established as the first Bishop of Québec, and with him the first "Canadian" diocese was created.²² It is important to note here that as the first bishop in New France, the Catholics considered to be under the care of Laval were those across the North American continent North, East, and West from Québec, as well as South to California and the Gulf of Mexico, save for those inhabiting the Eastern coast of what is now the United States of America.²³ This is reflected in communications that Laval wrote to Pope Alexander VII in 1660, reflecting on the maritime limits of the mission of New France in the North, East, West, and "au sud, les pays voisins sont la Nouvelle-Hollande et la Nouvelle-Angleterre."²⁴ It was not long before political conflict diminished French colonial claims on territory in North America, largely due to further foreign conquest by the British. However, for a time the colonial influence of France and the Roman Catholic Church within it was extensive.

Laval's successor, Jean-Baptiste de La Croix de Chevrières de Saint-Vallier, was the first Bishop to establish archival directives for the Canadian church.²⁵ The second

²¹ Fay, 22. Apostolic Vicar: essentially a deputy (vicar) to the pope, sent to administer a region that is elevated as being its own jurisdiction under the Holy See in Rome, but not elevated to the level of an independent diocese. Such a region would be known as an *apostolic vicariate*.

²² Jacques Lamarche, *Les évêques de l'Église catholique au Canada de 1658 à nos jours* (Montréal: LIDEC inc., 1999), 6.

²³ See map - Église Catholique de Québec, *Histoire*, <http://eglisecatholiquedeQuebec.org/>, accessed 21 December 2009.

²⁴ Lamarche, 5. Translation: "To the south, the neighbouring countries are New Holland and New England."

²⁵ Lamarche, 78; Marie-Paule Couturier, FMA, "Parish Archives," 2. Couturier paper presented at workshop of annual Canadian Canon Law Society Convention. Vancouver, October 1999. Copy accessed at front of archival finding aid at the Archdiocese of Winnipeg Catholic Centre, Winnipeg, Manitoba, 8 December 2009.

edition of the document was published at Paris in 1703 under the title *Rituel du diocèse de Québec publié par l'ordre de Monseigneur l'Évêque de Québec*.²⁶

In 1784 Newfoundland, then considered part of British North America, was designated as an apostolic prefecture and in 1795 elevated to the level of apostolic vicariate.²⁷ The first administrative division of the Diocese of Québec did not occur until 1817, when the Catholics in the region of Nova Scotia warranted their own apostolic vicariate.²⁸ Various districts within the Diocese of Québec began to develop, and the region was made an archdiocese in 1819. The first new diocese to be established was that of Kingston in 1826, and the next several dioceses that developed were placed under the jurisdiction of the Archdiocese of Québec.²⁹ As of 2016, seventy-two distinct Catholic corporate entities exist, eleven of them from Eastern-rite traditions, all making up the body of the Catholic Church in Canada.³⁰

Following the Example of Rome or Canada?

While the Catholic Church was expanding its administrative structures across Canada, shifts in records access practices were happening within the primary institutional example for all Catholic diocesan archives worldwide – the Archivio Segreto Vaticano, or Vatican Secret Archives (hereafter VSA).

We know that the Catholic Church has a long tradition of record keeping, argued by some to have been heavily influenced by the archival traditions of ancient Rome and

²⁶ Couturier, 2.

²⁷ Lamarche, 33.

²⁸ Ibid., 12.

²⁹ Ibid., 23.

³⁰ Canadian Conference of Catholic Bishops, “List of Dioceses and Eparchies by Pastoral Regions,” <<http://www.cccb.ca/site/eng/dioceses/list-of-dioceses-and-eparchies-by-pastoral-regions>>, accessed 4 March 2015.

the Roman laws that existed during the early development of church administration among Roman Christians.³¹ Further reading on the long development of the Vatican archives can be found elsewhere, and as the study of the VSA is not the purpose of this thesis, the following pages will not include much detail on the fascinating and complex history of those records. For a deeper English-language analysis of the VSA and its relationship to the development of diocesan archives' structures (particularly focusing on the United States), I recommend the theses by William Francis Louis (1941), Charles A. Kekumano (1954), and Gerard Measure (1995).³² The 2007 *American Archivist* article by Nicholas J. Tussing on the politics of the opening of the Vatican archives and Owen Chadwick's *Catholicism and History* both provide well-sourced analyses of the history of the VSA.³³ For an historical analysis that includes more recent developments in Catholic archival practice, *Les archives ecclésiales, diocésaines et paroissiales* (2009) by the Assemblée des chanceliers et chancelières du Québec provides an informative, faith-focused overview.³⁴

Worth noting are a few highlights of Vatican archival development, since they occurred during the years in which the Canadian Catholic Church was expanding administratively. Access to the Vatican's Archives became a major issue on the world stage, and a topic of interest ever since, when Pope Leo XIII decided to open them to

³¹ Kekumano, *Secret Archives of the Diocesan Curia*, 5. Kekumano cites specific Roman legal prescriptions, and this argument is repeated in Gerard Measure, *Access to the Diocesan Archives* (The Catholic University of America, Canon Law Studies: Washington, D.C.: 1995. Portland, Oregon: Theological Research Exchange Network, 1995), 7.

³² Louis, *Diocesan Archives*; Kekumano, *Secret Archives of the Diocesan Curia*; Measure, *Access to the Diocesan Archives*.

³³ Tussing, "Opening of the Vatican Archives"; Owen Chadwick, *Catholicism and History: The Opening of the Vatican Archives* (1978; Reprint, New York: Cambridge University Press, 2008).

³⁴ Assemblée des chanceliers et chancelières du Québec, "Chapitre 1 – Les archives dans la vie de l'Église," *Les archives*, pp. 5-28.

researchers in 1881.³⁵ Framing the opening of the archives amid political turmoil following the unification of Italy and loss of papal power, Tussing argues that Leo XIII promoted archival access because, “The archives, then, contained not dead documents, but weapons for controlling the memory of Italy, the Church, and Europe,” and that, “It derived this value precisely from its perceived neutrality.”³⁶ However, the movement towards access was slow, with a fair amount of secrecy. While the opening of the archives is dated as 1880 or 1881, there was little knowledge about it even within the Vatican.³⁷ Both Tussing and Chadwick discuss the developments in the early 1880s, but both indicate that few records seem to exist regarding the changes in attitudes toward archival access for these first two to three years.

Leo XIII’s perspective was outlined in 1883, when he wrote his epistle *Saepenumero Considerantes*, directed to Cardinals Antonino De Luca (Vice-Chancellor of the Roman Catholic Church), Jean-Baptiste-François Pitra (Vatican Librarian), and Joseph Hergenröther (Prefect of the Vatican Archives). Cardinal De Luca had also been a member of the Sacred Congregation for Studies for twenty years, from 1863-1883.³⁸ Leo XIII believed that by opening up the Catholic Church’s archives, the “truth” of the information kept in those records would “adhere itself to the souls of men,”³⁹ and lead them to see the good that the Catholic Church had contributed to the world, and more

³⁵ Tussing, 369

³⁶ Ibid., 372-373.

³⁷ Ibid., 369, 382.

³⁸ François Gasnault, “La Congregation des Études de 1824 à 1870,” *Archivum Historiae Pontificiae* 22 (1984), GBPress - Gregorian Biblical Press, 204.

³⁹ “Ceterum nihil magis optamus, quam ut ea, quae commemoravimus, sicut litterarum monumentis consignata sunt, ita animis hominum penitus adhaerescant.” Leo XIII, *Saepenumero Considerantes*, Rome (18 August 1883). http://w2.vatican.va/content/leo-xiii/la/letters/documents/hf_l-xiii_let_18830818_saepenumero-considerantes.html

specifically, Italian history.⁴⁰ He entrusted the addressees of the letter with this task,⁴¹ meaning that the Vatican's vice-chancellor, librarian, and prefect of the archives were expected to take charge of sharing the "archival truth" with the world. As part of these efforts, Leo XIII established a school of paleography and named the archivist of the city of Palermo, Canon Isidoro Carini, as the first professor.⁴² Established in 1884, the school gradually evolved into a much larger institution and came to be known as *Scuola Vaticana di Paleografia Diplomatica e Archivistica*.⁴³

While the Vatican Secret Archives in Rome was becoming more centralized, more open, and more professionalized, the Canadian Catholic Church was undergoing its own administrative developments. Prior to 1851, the administration of the Canadian Catholic Church was centred at Québec City, with smaller suffragan dioceses having been erected at Halifax, Charlottetown, Kingston, Montréal, Toronto, Fredericton, Antigonish, Saint-Boniface, Vancouver Island, and Ottawa (Bytown).⁴⁴ The single ecclesiastical province of Québec was initially divided in 1852 when Halifax was established as its own archdiocese; in 1870, the ecclesiastical province of Québec was further partitioned into three: Toronto and Saint Boniface were established as the centres

⁴⁰ "Omnes igitur, in quibus est vera patriae caritas, si saperent et vera viderent, in eo maxime deberent studium curamque ponere, ut amoveantur funesti huius dissidii caussae, et Ecclesiae catholicae tam aequa postulanti ac de iuribus suis sollicitae ea, qua par est, ratione satisfiat." Leo XIII, *Saepenumero Considerantes*.

⁴¹ "Hanc ad rem vestrum erit. dilecti filii Nostri, quanto maiorem potestis sollertiam industriamque conferre." Leo XIII, *Saepenumero Considerantes*.

⁴² Chadwick, 105.

⁴³ *Scuola Vaticana di Paleografia Diplomatica e Archivistica*, "Note Storiche," *La Scuola*, <http://www.scuolavaticanapaleografia.va/content/scuolavaticanapaleografia/it/la-scuola/note-storiche.html>, accessed 30 January 2016.

⁴⁴ Fernand Harvey, "La creation des dioceses catholiques et la structurations des regions du Québec, 1836-1973," in *Le Saint-Siège, Le Québec et L'Amérique française: Les archives vaticanes, pistes et défis*, edited by Martin Pâquet, Matteo Sanfilippo, and Jean-Philippe Warren (Québec: Presses de l'Université Laval, 2013), 237.

of two newly established archdioceses to the west.⁴⁵ In 1867, Canada's Confederation stands out as particularly notable among the many political events taking place in Canadian spaces during the second half of the nineteenth century. It was also the era during which Canadian Catholics experienced major cultural shifts, which Terence J. Fay describes as "Gallicanism, Romanism, and Canadianism."⁴⁶ The first shift, taking place in the mid-to-late 1800s, was a movement from French-centered "Canadien" control of Catholic administration to a more ultramontane spiritualism with many English-speaking "Celtic-Canadian" groups adding to the Indigenous and Franco-European Catholics, demanding their own bishops across the country.⁴⁷ The second shift came with the waves of European immigration that began during the later years of the nineteenth century and into the twentieth. Roberto Perin refers to this as "the third force in Canadian Catholicism," which further increased the cultural complexity of Canadian Catholicism.⁴⁸ Fay highlights the large number of German, Ukrainian, Polish, and Hungarian immigrants, particularly noting the establishment of Eastern-rite Catholic churches for Ukrainians in Western Canada.⁴⁹

The political and cultural turmoil in Canada that went with diocesan expansion through the late nineteenth century and early twentieth can be considered a factor in shaping the early administrative structure of many Canadian Catholic dioceses. Both Fay and Perin describe many ways in which resources were directed towards supporting religious-based social structures such as hospitals, schools, and ethnic-specific

⁴⁵ Roberto Perin, *Rome in Canada: The Vatican and Canadian Affairs in the Late Victorian Age* (Toronto: University of Toronto Press, 1990), 12.

⁴⁶ Fay, xi-xv.

⁴⁷ Ibid.

⁴⁸ Roberto Perin, *The Immigrants' Church: The Third Force in Canadian Catholicism, 1880-1920*, Canada's Ethnic Group Series Booklet no. 25 (Ottawa: The Canadian Historical Association, 1998).

⁴⁹ Fay, 176-186.

community supports such as parishes and cultural organizations. At the same time, both indicate the ongoing political battles between English and French-speaking Canadians, and the ways in which these groups tried to express their dominance within Canadian Catholicism. Altogether, the limited resources in less established dioceses, the influx of immigrants in need of social supports, the ongoing cultural protectionism and political battles being waged both externally and within the Canadian Catholic church did not bode well for attention to be directed toward the development of archival professionalism for diocesan archives within the pan-Canadian context, despite the example of Rome.

Furthermore, the history of the Canadian Catholic Church was much shorter than that of the Church in Europe, where the nineteenth-century popes were giving their attention to centuries of church archives. Even older, more established dioceses in Canada that had more records by virtue of their earlier establishment, as well as more well-developed administrations and resources (population, monetary, and physical spaces in which to keep those records), were undergoing dramatic shifts. In Québec alone, the five dioceses in existence in 1852 became fifteen (plus one apostolic vicariate) by 1922, and twenty dioceses with two apostolic vicariates by 1963 – all serving the same territory as the original five.⁵⁰ So while records were certainly being created and kept, even by priests travelling with Giovanni Caboto (John Cabot) in 1497,⁵¹ the centralization and formalized archival administration of these records in Canada is not apparent. Many early records instead found their way to church archives in Rome or the mother houses of religious orders. The regionalization of Canadian Catholic diocesan archives began in the

⁵⁰Harvey, 240-241.

⁵¹Luca Codignola, “Competing Networks: Roman Catholic Ecclesiastics in French North America, 1610-58,” *The Canadian Historical Review* 80, no. 4 (1999): 542.

earliest stages of their development, and each region had its own administrative pre-occupations.

However, things began to change in the early 1900s, not only in Canada but within the global Catholic Church. In 1917, the official codification of Catholic canon law as a condensed entity, known also as the Pio-Benedictine Code of Canon Law, was promulgated by Pope Benedict XV. This code and the associated commission for authentic interpretation of the canons set up the same year meant that the Catholic Church had a single codified source for their centuries-old legal traditions.⁵² More importantly for diocesan record-keepers, the canons contained instruction for creating, safeguarding, and using the contents of diocesan archives. These included structures for both general archives and the secret, confidential archives.

A major cultural shift occurred in the 1960s in the Catholic Church with the documents and recommendations that came out of the Second Vatican Council. Notably, there was a shift to vernacular language celebrations of mass and the encouragement of increased participation of the laity in parish, diocesan and larger church life.⁵³ These shifts encouraged a deeper sense of the church as an entity “of the people”. By extension, the ability to see oneself as a more active participant in diocesan life can give people the idea that the general archives of their dioceses are the records of their own lives, their own histories. These identifications can lead to the desire for greater access to these stories and the ability to share them.

⁵² Edward N. Peters, *The 1917 or Pio-Benedictine Code of Canon Law in English Translation with Extensive Scholarly Apparatus* (San Francisco: Ignatius Press, 2001), 25.

⁵³ Vatican II, *Apostolicam Actuositatem* (Decree on the Apostolate of the Laity), Chapter 3, Section 10 (Vatican City: 1965), http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651118_apostolicam-actuositatem_en.html, accessed 30 January 2016.

In 1983, the Catholic Church promulgated a clarified and updated version of its Code of Canon Law, and the changes to the canons on archives will be discussed in more detail in a later chapter. However, the fact that these changes were made at a time when Canada was undergoing a professionalization of archival practice more generally is worth noting. Laura Millar's recent summary of the past forty years of Canadian archival journal *Archivaria* provides an excellent contemporary synopsis of the evolution and preoccupations of the Canadian archival profession during that time and earlier.⁵⁴ Millar highlights the 1953 formation of the Archives Section of the Canadian Historical Association, the 1963 development of the newsletter *Canadian Archivist/L'Archiviste Canadien* that would evolve into a journal by 1969, and how this community became the Association of Canadian Archivists with the newly titled journal *Archivaria* in 1975.⁵⁵ This community grew, changed, and debated various aspects of its identity, not least among these being the early debate over education and the establishment of dedicated Canadian archival studies programs, first at UBC in 1981, then the University of Manitoba in 1991, with specializations and programs at other institutions to follow.⁵⁶

At the same time, the Vatican was again taking an interest in giving new direction to those caring for the cultural treasures of the church, including archives. In 1993 Pope John Paul II established the Pontifical Commission for the Cultural Patrimony of the Church. The documents and directives put forward by this commission will be examined in more detail in a later chapter, but its establishment during the era of deepening archival identity in Canada shows us that the movement towards archival awareness for Catholic

⁵⁴ Laura Millar, "Explaining Ourselves: 40 Years of *Archivaria*," *Archivaria* 80 (Fall 2015): 5-31.

⁵⁵ *Ibid.*, 11.

⁵⁶ *Ibid.*, 13-14.

dioceses in Canada was coming from both the Canadian archival community as well as from the Catholic Church's central administration.

An additional force lies within this collection of archival supports for Canadian Catholic diocesan archives, and this comes from the groups and organizations specifically dedicated to supporting the religious archives of Canada, either regionally or as a whole. One of the earliest organizations to form for this purpose was the Regroupement des Archivistes Religieuses, which was founded in 1978 and formally incorporated in 1991 in the province of Québec.⁵⁷ The organization focuses on supporting and providing resources for archivists of Catholic institutions and communities in the French language. Similarly, in 1982 the Canadian Religious Conference of Ontario Archivist Group was formed.⁵⁸ This group developed to facilitate knowledge-sharing and community support for the Catholic archival experience among parishes, religious orders, and dioceses, mainly in English. In 2004 it expanded its mandate across Canada, and became the Catholic Archivist Group.⁵⁹

In 1985, religious archivists of various faith backgrounds gathered at a meeting of the Association of Canadian Archivists and established the Religious Archives Special Interest Section.⁶⁰ While not a resource for specifically Catholic archives, the shared experiences of maintaining small archives and similarity of record types across faith traditions meant that there was common ground upon which to assist and support one

⁵⁷ Regroupement des Archivistes Religieuses, *À propos*, <https://regroupementarchivistesreligieux.wordpress.com/a-propos/>, accessed 1 February 2016.

⁵⁸ Catholic Archivist Group, "Mission Statement," *Home*, <http://www.catholicarchivist.ca/>, accessed 1 February 2016.

⁵⁹ Ibid.

⁶⁰ Association of Canadian Archivists, "Religious Archives Special Interest Section," *Professional Development*, <http://archivists.ca/content/religious-archives-special-interest-section>, accessed 1 February 2016.

another in archival practice. Provincial archival associations across Canada at times have included interfaith religious archives special interest sections that support provincial needs, but generally cover a much smaller membership body compared to those mentioned above.⁶¹

The professional associations mentioned above, in addition to the Pontifical Commission for the Cultural Patrimony of the Church, have all released documents, whether formal directives or newsletters and conference papers. These publications, as well as the social support provided by meetings, conferences, and correspondence, have helped to shape the face of Catholic diocesan archival practice. The important interactions regarding policy development and realities of practice will be discussed further in chapter three.

External Forces Affecting Diocesan Archives

Beyond what is going on in the archival community or communities, as the case may be, Catholic diocesan archivists have to deal with external forces (mainly, non-archival) as well. First, there are the users of the archives. There exists a particular hierarchy of users, and in the case of Catholic diocesan archives, some of them may be above the level of the archivist.

First, there are the bishop and the chancellor. The bishop has both full access to the common archive and complete control over the secret/private archive, to which only the bishop has the canonical right to hold a key.⁶² The chancellor, among other duties, is

⁶¹ See example, "AFROG Takes a Giant Leap Forward", *Archives Society of Alberta Newsletter*, vol. 24 no. 3 (Spring 2005), http://www.archivesalberta.org/vol24_3/afrog.htm, accessed 1 February 2016.

⁶² Holy See of the Roman Catholic Church, *1983 Code of Canon Law*, English Translation (Washington, D.C.: Canon Law Society of America, 1998), http://www.vatican.va/archive/ENG1104/_P1P.HTM, accessed 1 February 2016, Canon 490.

in charge of the records of the curia and the archive. The chancellor also has full access to the common archive.

Next is the archivist, if the diocese employs one, which in itself is a topic to be discussed in a later chapter. The archivist may have formal archival education or training, may be a non-archival staff member, or may even be a volunteer able to provide occasional archival services under the direction of the chancellor or bishop. Because of the range of duties that an archivist's job entails, her or his role as a user could be similarly varied. However, if someone is serving in the capacity of an archivist for the diocese, then she or he generally has full access to the common archive, but not the secret archive. The distinction between the two will be discussed in more detail later.

We then encounter various internal users. Members of the diocesan administrative structure may have access to their own offices' past records but not to others, depending on the archival and records management policies of the diocese. There may also be administrators of parishes, religious communities, or institutions and organizations whose records are partially maintained in the diocesan archive, or at least records of their parishes' interactions with the diocese are there. These may be operational or spiritual in nature, and the uses would vary by record type.

Following this are external users. They could be historians, genealogists, authors, lawyers, community leaders, members of parishes, relatives of past members of the diocese, among others. The records needed and their uses vary widely depending on the case. Each archival user has a different type of need for the records as well as different structures for access.

In addition to these various users, the external, non-archival forces that can affect diocesan archives may be (among others) administrative, historical, legal, spiritual, economic, cultural, or social in nature. These forces can affect how a region, diocese, bishop, chancellor, archivist, or user understands archival materials and their purposes. These ways of understanding records can greatly influence the perceptions and realities of access, both on the side of the access provider and the user seeking access. For instance, highly politicized and publicized issues affecting church records occasionally garner attention from the media, and access to sensitive records held by diocesan archives can become a major public issue. It is not uncommon in such cases to find that the perceptions and realities of access factors are not in line. The following illustrates one instance in which the entire Canadian archival community became involved, and represents a much broader and more complex story.

On 6 April 2010, the Canadian newspaper *The Globe and Mail* published an article entitled “Catholic church reluctant to release residential schools records.” This article addressed the slow release of archival documents regarding residential schools to the Truth and Reconciliation Commission of Canada (TRC). It stated that “the Conservative government and the churches that helped run Canada’s Indian residential schools are sitting on mountains of archival material, but not a single page has yet been turned over to the commission.”⁶³ It contained a disparaging tone about the records holders of the religious denominations involved, but particularly targeted the Canadian Catholic Church, and trivialized legitimate legal issues. The author included strong

⁶³ Bill Curry, “Catholic church reluctant to release residential schools records,” *The Globe and Mail*, 6 April 2010, www.theglobeandmail.com/news/politics/catholic-church-reluctant-to-release-residential-schools-records/article1524204/, accessed 7 April 2010.

personal views about the denomination, and suggested that Catholic Church leaders were opposed to the full release of documents.⁶⁴

The Canadian archival community, via the Association of Canadian Archivists email-listserv ARCAN-L, quickly became aware of the allegations made in the nationally published article.⁶⁵ The topic was especially an issue for the Religious Archives Special Interest Section (RASIS) of the Association of Canadian Archivists. The Chair of RASIS, Rodney Carter, released the preliminary text of a letter to the editor the next day, 7 April 2010. Some discussion took place via the listserv over the course of the day, and on 8 April 2010, a response from members of the Association of Canadian Archivists, via its president Paul Banfield, was printed in the letters to the editor section of *The Globe and Mail*.⁶⁶ The letter highlighted the real importance of the privacy legislation that Curry trivialized in his article, and in it Banfield pointed out that Catholic archivists' concerns had been "greatly oversimplified," and that Curry had "painted an incomplete picture of the position of the archives of other denominations."⁶⁷ Most importantly, the article concluded with the statement, "A dialogue among denominational and church archives and the Truth and Reconciliation Commission must be opened so that the concerns of both are met."⁶⁸ This dialogue was and continues to be needed, and despite the conclusion of the TRC's mandate, there is still a lot of work to be done.

⁶⁴ Ibid.

⁶⁵ Emails sent via ARCAN-L, 7 April 2010 by Rodney Carter and Creighton Barrett, under the heading, "ACA responds to the Globe and Mail on Archives & the TRC."

⁶⁶ Paul Banfield. "Archivists and Privacy." *The Globe and Mail* 8 April 2010, www.theglobeandmail.com/news/opinions/letters-to-the-editor/archivists-and-privacy/article1527193/#, accessed 11 April 2010.

⁶⁷ Ibid.

⁶⁸ Ibid.

However, this is just one very public example of a case where access to Canadian Catholic diocesan archival materials became a very complex issue, which can involve legal proceedings to mediate the dialogue at various points. A further example of this was the dispute over what should happen to records once they were provided to the Truth and Reconciliation Commission.⁶⁹ The work at hand is not meant to be a case study of individual instances of access, but rather a study of what information is available about access to Catholic diocesan archives in Canada, the basics of how access to these various archives work, an examination of policies and access to information about access and what sort of information could or should be presented to the public about access.

Examining case studies such as that of TRC records requests or court cases regarding sexual and other abuses by Catholic clergy, while often the issues most in the public eye,⁷⁰ is not the purpose of this study. These types of access cases are important to acknowledge in that they shape how the public might understand diocesan archival access – as difficult, involving legal intervention, complex and contentious. However, it is the complexity and sensitivity, as well as the legal nature of these requests that frame their intensity as examples of access. They do not represent the day-to-day access and policy needs of Catholic diocesan archives in Canada. This is not meant to belittle or in any way deny the heavy importance of the access relationships involved in legal and public proceedings, but rather to point out the separate nature and different direction that studying these specific issues would involve. There will be some further discussion of

⁶⁹ Todd Lamirande, “Catholic groups lose residential school argument,” *APTN Investigates*, 4 July 2014, <http://aptn.ca/news/2014/07/04/catholic-groups-lose-residential-school-argument/>.

⁷⁰ Mary Ormsby, “Sex abuse victims say church is still tenaciously fighting claims,” *The Toronto Star*, 30 May 2010, http://www.thestar.com/news/ontario/2010/05/30/sex_abuse_victims_say_church_is_still_tenaciously_fighting_claims.html.

legal cases in chapter 2, but these are meant to supplement and inform the more general discussion of access that applies to the whole of Catholic diocesan archives across the country.

The information in the following chapters on the legal and practical frameworks of access contributes to the understanding of legal access issues. Yet the varied nature of Catholic diocesan archival records means that in order to get a better understanding of basic access information and practicalities, a wider spectrum of access issues needs to be considered. Publicized legal cases involving Catholic diocesan archives in Canada, while each important in their own right, represent a small percentage of the day-to-day need for access to Canadian Catholic diocesan archival records.

Other influences that can shape public understanding of Catholic diocesan records are the proliferation of online and print news coverage, blogs, even videos that highlight the “secret” and “rare” nature of access to the records of the Vatican archives or diocesan archives. While the rigorous academic process required to gain access to the VSA can indeed be considered rare in comparison to access to archives elsewhere, and the rarity of the types of records held in the VSA is worthy of note, these aspects are generally not the ones that receive the most attention. A basic online search for “secret archives” will immediately retrieve both coverage of the Vatican Archives’ exhibits or news, as well as various conspiracy theories about “what they’re hiding.” The desire of journalists and media outlets to highlight that which is more exciting or sensational, and the ability of people to publish and make accessible whatever they like online, means that the “secret” part of Vatican and Catholic diocesan archives can become the main point of emphasis in the mind of the average person. Fictional representations of the VSA, such as those in

Dan Brown's *Angels & Demons*, further lend to misrepresentation and misunderstanding of the nature of these archives and their contents.

Another consideration is that while the personal archives of the popes, the Vatican Secret Archives, contain material that is truly archival, the records of diocesan secret archives may contain more recent confidential records more akin to confidential corporate records than historical archival materials. There are deeper spiritual and canonical dimensions to most of these diocesan records of course, but the nature of the difference between "secret archive" records versus "historical archive" records will be explored more deeply in later chapters. However, given that the VSA is the main frame of reference for many people when it comes to Catholic Church archives, it becomes easy to assume that if the Vatican does something a particular way, that the same must be true of other Catholic administrative bodies.

The reality is that each diocesan body may do things very differently from others, and this is certainly true across Canada. The multitude of combinations of both internal and external forces, of Catholic and Canadian/regional laws and recommendations, and of unique case factors for each instance of archival access make for a unique spectrum of access possibilities for Canadian Catholic diocesan archives. The following chapters will begin to illustrate the many directions and layers of this access spectrum, and provide some guidance on ways in which understanding the spectrum can help both those in charge of diocesan archives, as well as the potential access-seekers, to move forward towards best practices for Catholic Church diocesan archives access in Canada.

Chapter Two: Archival Applications of Canon Law, Legislation, and Case Law

A major part of understanding access to Catholic diocesan archives in Canada is identifying the different forms of law that apply or may apply to the records held by these institutions, and how these laws relate to each other. Public and private archives in Canada operate under different legislation or internal legal structures that affect the unique patterns of access provision for each archival entity. Governments and public bodies are bound by national, provincial, and municipal laws that require their offices and staff to adhere to legislated record-keeping practices and clear access protocols when preserved in public archives. Corporations and other private bodies may have their own by-law structures and normative practices that determine records retention and preservation, along with access principles for the organization's predominantly private records.

Catholic diocesan archives in Canada face access issues across the entirety of this legal spectrum, both legally and in terms of public preconceptions. Access in diocesan archives requires constantly negotiating a balance across Canadian records laws at various levels, Catholic canon law, and potentially by-laws or external laws affecting the corporate organization. Many challenges come into play when archives hold records that are important to both church and state, the private corporation as well as the people of the communities the diocese serves.

The following chapter outlines three different spheres of law that have an impact on diocesan archives, and further delves into how these aspects of law affect access to and understanding about access to Catholic diocesan archival records. Finally, an examination of the relationships between these spheres of law is included, as they apply – or could potentially apply – to the archival record. Canada's Catholic diocesan archives

exist as part of an intricate web of legal frameworks that can be difficult to navigate. There are internal regulatory systems that arise from Catholic canon law, as well as from documents developed by Catholic Church councils and commissions. Canadian laws, especially federal and provincial privacy laws, *may* apply to specific cases, but can also be used as models and guidelines in situations where they are not legally applicable. The network of legal factors goes on to include internal corporate law, which again may vary depending on the corporate structures of individual Ecclesiastical Corporations. Further considerations also come into play when access requests are part of a parliamentary process, legal proceedings, vital statistics needs, or other case-by-case applications. The chapter ahead begins to clarify when, where, and why the various legal structures affect diocesan archival access, with the purpose of disentangling this complex web of considerations.

The approach taken here maintains that there needs to be a balance of understanding and respect for diocesan bodies as both religious structures with their own systems of internal governance, as well as Canadian corporate structures with the accompanying rights and responsibilities. The main day-to-day legal considerations for diocesan archives are internal regulations, namely those coming from canon law. Secondly, the corporate framework and considerations resulting from corporate legal structuring are next when moving outwards on the sphere of legal considerations, as shown in *Figure 1* below. There might be by-laws affecting archives, as well as demands on records that must be publicly available for corporations, such as past lists of board members. Next, the legal structures of Canada fill the outermost rim of the circle of considerations. These encompass other legal structures because the “law of the land”

often overrides lower-level legal demands, yet they do not apply to the day-to-day functioning of private diocesan archives. Thus they are the farthest from the centre of basic functions, but all-encompassing in potential application should the need arise.

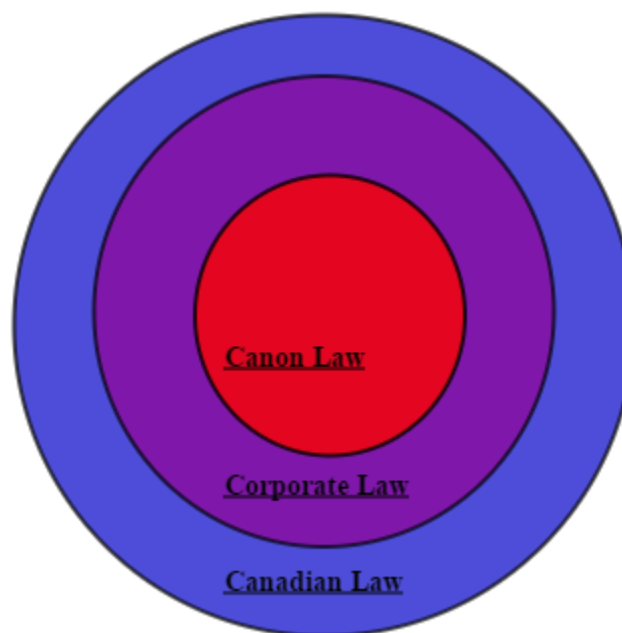


Figure 1: Spheres of Legal Influence

The following sections provide an examination of how each type of legal structure, designated as canon, corporate, and Canadian for the purposes of this study, independently affects the structure of Canadian Catholic diocesan archives and access to the records contained within them. This will be followed by a look at some examples of overlap between these different legal structures and a further examination of the overall relationship of the three legal constructions as they affect access to Catholic diocesan archives in Canada.

Canon Law

Catholic Church laws clearly outline the basic requirements for diocesan archival records, in both the Code of Canon Law and the Code of Canons of the Eastern Churches. These legal codifications apply to all Catholic Church administrative structures in Canada, and as such all diocesan archives across the country. The following section gives a brief explanation of the development of the Catholic canons that apply to archives, outlines the canons themselves, and describes what they mean for Catholic diocesan archival structure and functionality.

The history of canon law dates back centuries. An early compilation by Gratian in the 1100s is the *Corpus iuris canonici*, also referred to as the *Decretum Gratiani*.¹ This was expanded upon in later centuries by works such as Pope Gregory IX's *Liber Extra* (1234), Pope Boniface VIII's *Liber Sextus* (1298), Pope Clement V's *Clementiae* and *Extravagantes* (1300s), and a collection of papal decretals gathered into the volume *Extravagantes communes*.² After these, a combined code of ecclesiastical legislation was not re-collected until the participants of the First Vatican council called for one in 1870. This appeared in 1917 as the Pio-Benedictine Code of Canon Law.³

As for church decrees regarding archives specifically, available source material regarding Catholic archival regulations dates back to decisions on marriage reform at the Council of Trent in 1563.⁴ While there are many mentions in the historical record of the Catholic Church's historical records, including in letters and council documentation from

¹ M. H. Ogilvie, *Religious Institutions and the Law in Canada*, 3rd ed. (Toronto: Irwin Law Incorporated, 2010).

² Ibid.

³ Ibid.

⁴ Concilio di Trento, Sessione XXIV, "Canones super reformatione circa matrimonium," in *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione*, ed. Angelo Giorgio Ghezzi (Milano: I.S.U. Università Cattolica, 2001), 189-191.

at least 343, there appears to be no known record of legislation concerning Catholic Church archives prior to the 1500s.⁵ As a result, statements from the sixteenth century appear relatively abundant, though of course this might say more about the record-keeping of the record-keepers than about what was truly decreed prior to the 1500s. While no decrees may have been created prior to the 1500s, it is also possible that some were created and that reference to them simply has not survived.

Following the Council of Trent, Pope Pius V published a papal brief titled *Inter Omnes* on 6 June 1566, which took writing by St. Charles Borromeo on the subject of archives from the previous year, written for the churches centred in Milan, and applied it to the Catholic Church more broadly.⁶ Pius V subsequently sent a reminder of the importance of keeping proper archives to the Bishop of Montefiascone on 13 August 1568.⁷ On 1 March 1571, Pius V directed the papal bull *Muneris Nostri* to the Sicilian bishops, which included details on diocesan records preservation and penalties for neglect of the archival requirements he set forth.⁸ Finally, to cap off the decrees for diocesan archives promulgated in the 1500s, Pope Sixtus V commanded the dioceses of Italy to establish archives and maintain inventories in his 29 April 1587 constitution *Provida*.⁹

In 1616 Scipione Cardinal Borghese, as Vatican librarian, signed off on internal rules for the Vatican Library and Archives, and in 1721 Annibale Cardinal Albani, Camerlingo or chamberlain of the papal curia, set out an edict detailing many regulations

⁵ William Francis Louis, *Diocesan Archives: A Historical Synopsis and Commentary*, The Catholic University of America Canon Law Studies No. 137 (Washington, D. C.: The Catholic University of America Press, 1941), 11.

⁶ Vincenzo Monachino, "Introduzione alla Guida degli Archivi Diocesani d'Italia," in *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione*, ed. Angelo Giorgio Ghezzi (Milano: I.S.U. Università Cattolica, 2001), 20.

⁷ Ibid.

⁸ Louis, *Diocesan Archives*, 18.

⁹ Ibid.

for archives.¹⁰ However, it is Benedict XIII's Apostolic Constitution *Maxima Vigilantia*, published in 1727, that is recognized as the first broad-spectrum directive for the administration of Catholic Church diocesan archives.¹¹ While most statements prior to *Maxima Vigilantia* were not necessarily designed as universal legislation, they existed as structured, official information on archives put out as an example by the papacy. However, it is generally acknowledged that *Maxima Vigilantia* forms the basis for the canons on archives in the 1917 Code of Canon Law.¹²

The main body of canons regarding archives in the 1917 code can be found from canon 375 to canon 384, and these correspond to canons 482 to 491 in the subsequent 1983 Code of Canon Law.¹³ In the 1917 code, the canons on archives start with an outline of the process and conditions needed to establish a chancellor in a diocese, along with the expectations for notaries appointed as assistants to a chancellor.¹⁴ Next, the canons state the need for bishops to establish a place, "in which instruments and writings that concern the spiritual or temporal affairs of the diocese are suitably disposed and kept diligently secure."¹⁵ The canons then detail that the maintenance of an inventory or catalogue of the diocesan archives is required, that the inventory needs to be updated in the first two months of every year, and the expectation that best efforts should be made to return

¹⁰ Angelo Giorgio Ghezzi, ed., *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione* (Milano: I.S.U. Università Cattolica, 2001), 205, 207.

¹¹ *Ibid.*, 217.

¹² Thomas F. O'Connor, "Catholic Archives of the United States," *The Catholic Historical Review* 31, no.4 (1946): 415.

¹³ Edward N. Peters, *The 1917 or Pio-Benedictine Code of Canon Law in English Translation with Extensive Scholarly Apparatus* (San Francisco: Ignatius Press, 2001), 148-151; Holy See of the Roman Catholic Church, *1983 Code of Canon Law*, English Translation (Washington, D.C.: Canon Law Society of America, 1998), <http://www.vatican.va/archive/ENG1104/_PIP.HTM>, accessed 1 March 2016.

¹⁴ *Ibid.*, 147-148; canons 372-374.

¹⁵ *Ibid.*, 148; canon 375.

separated archival items back to the archive.¹⁶ Following this, canon 377 outlines that the archive has to be locked, specifies the requirement of formal permission to enter it, and that only the chancellor is to have the key. It was also possible for “writings” to be removed from the archives with the consent of the bishop, but for a maximum of three days unless the bishop extends the time, and written notification has to be provided to the chancellor to document the materials’ removal.¹⁷

The 1917 canons also include the decree that bishops need to have a separate, private archive or locked safe within the common archive for confidential documents. This is the description of the “secret archive” that often gets the most attention when discussing Catholic archives. The canons further outline that when records from this secret archive are destroyed, which was part of a required yearly evaluation, a summary of the facts has to be kept; an alternate inventory from the main archive is also required to be kept for these private records. Furthermore, the private archive or safe is to be opened with two keys: one stays with the bishop or his equivalent, the other with the vicar general or the chancellor. Only a bishop is given the right to unlock and examine the contents of the private archive without secondary supervision, after which it again has to be locked with both keys.¹⁸ The canons are very rigorous about the privacy of the confidential documents, even internally within the diocesan administrative hierarchy.

The canons then describe the requirement to appoint a priest to safeguard the previous bishop’s key to the secret archive prior to the arrival of a newly appointed bishop. There are even detailed provisions for who should hold the private archive’s keys

¹⁶ Ibid., 149; canons 375§2-376.

¹⁷ Ibid., 149; canons 377-378.

¹⁸ Ibid., 149-150; canon 379.

during circumstances in which a bishop is unable to take up his post, sometimes involving the application of the curial seal to the tabulary or safe.¹⁹ The secret archive could be opened in extreme circumstances for inspection by a Vicar Capitulary, but only in the presence of two observers of specified ranks, and subsequently the archives must be re-sealed. A report to the incoming bishop of any special examination of the private archive's contents is required upon the bishop's arrival.²⁰

In canon 383, there is a requirement for duplicate copies of the archival inventory of parishes, religious communities, or similar archives from within the diocese to be kept in the episcopal (diocesan) archive. This includes emphasis on the fact that no original documents should leave any of these archives, unless the bishop has given permission and the record is returned within three days, as with the diocesan archive. Finally, regulations for public access to the archives are detailed. Non-confidential records of any parish or diocesan archive are open for researcher examination, and researchers can make copies at their own expense. However, those in charge of diocesan, parish, and religious communities' archives are reminded to follow any rules put forth by ecclesiastical authorities governing their region, particularly when any documents are being shared or copies sent. Any cases of uncertainty about allowing copies or access are to be addressed to the bishop of the jurisdiction in which the archive is located.²¹

It is important to recognize that the 1917 canon law, following upon past decrees, outlines consequences for neglect of canon archival duties.²² Records had to be both preserved and protected in accordance with the Code of Canon Law, or else the bishop

¹⁹ Ibid., 150; canons 380-381.

²⁰ Ibid., 150-151; canon 382.

²¹ Ibid., 151; canon 384.

²² Couturier, 4

above the pastor in charge would discipline him in proportion to the offence.²³ The punitive structure also applied to anyone who dares to “falsify, adulterate, destroy, or hide” records, and failure to provide access or produce copies when legitimately requested could result in the offender’s removal or suspension from office, in addition to being fined for the offence.²⁴ A striking punishment also applies to cases in which anyone removes, obliterates, hides, or otherwise purposefully damages archives of the Episcopal Curia. The person would “incur automatic excommunication simply reserved to the Apostolic See [Pope] and can also be struck by the Ordinary [Bishop] with deprivation of office or benefice.”²⁵ The Catholic Church encoded what could be considered the highest penalty, excommunication, for purposely interfering with the archival record, demonstrating just how very seriously archives were regarded in the eyes of the Catholic Church and its canonists.

In 1983, revisions were put in place for the main Code of Canon Law, and an additional Code of Canons of the Eastern Churches was promulgated in 1990. The canons which outline the administration of diocesan archives in the main code are those from canon 482 through canon 491. The Eastern Churches’ code includes the equivalent canons starting with canon 252 and ending with canon 261. While both codes include references to types of documents to be placed in the archives and management of temporal goods, which in some cases may be kept within the archives, these references are outside of the main codes on archives and not specific to archival access. Thus they will not be examined in the following pages. However, for diocesan archivists looking at

²³ Peters, 755; canon 2383.

²⁴ Ibid., 760; canon 2406.

²⁵ Ibid., 760; canon 2405.

topics such as records retention or the removal of artefacts from the diocesan holdings, deeper examination of the Codes of Canon Law is of vital importance.

In the next section, each canon within the “archives” articles of the Codes of Canon Law will be highlighted with a brief commentary, followed by an overall summary. In the following pages, CIC (*Codex Iuris Canonici*) will refer to the main Code of Canon Law and CCEO (*Codex Canonum Ecclesiarum Orientalium*) will refer to the Code of Canons of the Eastern Churches.²⁶

CIC: Canon 482

§1. In every curia a chancellor is to be appointed whose principal function, unless particular law establishes otherwise, is to take care that acts of the curia are gathered, arranged, and safeguarded in the archive of the curia.

§2. If it seems necessary, the chancellor can be given an assistant whose title is to be vice-chancellor.

§3. By reason of being chancellor and vice-chancellor they are notaries and secretaries of the curia.

CCEO: Canon 252

§1. In the eparchial curia a chancellor is to be appointed who is to be a presbyter or deacon and whose principal obligation, unless otherwise established by the particular law, is to see that the acts of the curia are gathered and arranged as well as preserved in the archives of the eparchial curia.

§2. If it seems necessary the chancellor can be given an assistant whose title is vice-chancellor.

§3. The chancellor as well as the vice-chancellor are by the law itself notaries of the eparchial curia.

The sections of canon law pertaining to archives begin with these statements describing the appointments of chancellors and any vice-chancellors, whose main canonical responsibility is to the maintenance of the curial archives – the administrative archives of the diocese. So from the beginning of canonical treatment of archives, we see

²⁶ English translation of CIC is from Holy See of the Roman Catholic Church, *1983 Code of Canon Law*, English Translation (Washington, D.C.: Canon Law Society of America, 1998) <http://www.vatican.va/archive/ENG1104/___PIP.HTM>, accessed 1 March 2016. English translation of the CCEO is from Holy See of the Roman Catholic Church, *Code of Canons of the Eastern Churches*, English Translation (I IntraText Edition: Eulogos SpA, 2007). <<http://www.intratext.com/X/ENG1199.HTM>>, accessed 1 March 2016.

the establishment of a primary archival administrator and the structure of that role within the formal diocesan administration.

Next, the canons explain the requirements for notaries. From an archival access and reference perspective, the signature of a notary is meant to provide a checkpoint for the formal authenticity of acts held within the curial archives. Also, given that the canons specifically outline the requirement for notaries to have a particularly good reputation, this provides a further expectation of the veracity of the content of documents bearing the notaries' signatures.

CIC: Canon 483

§1. Besides the chancellor, other notaries can be appointed whose writing or signature establishes authenticity for any acts, for judicial acts only, or for acts of a certain case or affair only.

§2. The chancellor and notaries must be of unimpaired reputation and above all suspicion. In cases in which the reputation of a priest can be called into question, the notary must be a priest.

CIC: Canon 253

§1. Besides the chancellor other notaries can be appointed whose signature establishes the authenticity of any acts whatsoever, of judicial acts only or of the acts of a certain case or transaction only.

§2. Notaries are to be of good character and above reproach; a priest must be the notary in cases in which the reputation of a cleric can be called into question.

As for the further requirements of notaries, section (3) in both CIC Canon 484 and CCEO Canon 254 specifically refer to the provision of access. However, the records referenced here are of a type not found within the historical archive, as many notarized records of a diocesan archive could be types of confidential records. As such, these canons would apply to *internal* access rather than *external* access. More on internal and external access divisions will follow in the next chapter, but the canons discussed below also describe the secret versus historical archive, and whether records are “by their nature public”. The whole of these canons have to be considered, along with the actual context

of each individual record, when examining the level of access for archival materials. The canons also make clear the ultimate authority of a bishop over the chancellor and notaries, and thus, the archives.

CIC: Canon 484

It is the duty of notaries: (1) to draw up the acts and instruments regarding decrees, dispositions, obligations, or other things which require their action; (2) to record faithfully in writing what has taken place and to sign it with a notation of the place, day, month, and year; (3) having observed what is required, to furnish acts or instruments to one who legitimately requests them from the records and to declare copies of them to be in conformity with the original.

Canon 485

The chancellor and other notaries can be freely removed from office by the diocesan bishop, but not by a diocesan administrator except with the consent of the college of consultors.

CCEO: Canon 254

It is the notaries' duty: (1) to write the acts and documents relating to decrees, dispositions, obligations or other tasks which are required of them; (2) to put faithfully into writing those things which are done and to sign the acts of these matters with a notation of the place, day, month and year; (3) with due consideration of all requirements, to furnish acts or documents to one legitimately requesting them and to declare copies of them to be in conformity with the original.

Canon 255

The chancellor and other notaries can be freely removed from office by the eparchial bishop, but not by the eparchial administrator except with the consent of the college of eparchial consultors.

The next canons provide the basic requirements for creating the archival storage area, the expectations for care of the records held there, and the development of inventories. Here we see the first divergence in the two Codes of Canon Law. While the expectation is that the treatment of diocesan and eparchial archives would be the same throughout the Catholic Church, whether from Latin rite or Eastern-rite traditions, it does provide a point of interest that the language and structure of archival canons instituted only seven years apart (1983 for the CIC and 1990 for the CCEO) would be notably different.

CIC: Canon 486

§1. All documents which regard the diocese or parishes must be protected with the greatest care.

§2. In every curia there is to be erected in a safe place a diocesan archive, or record storage area, in which instruments and written documents which pertain to the spiritual and temporal affairs of the diocese are to be safeguarded after being properly filed and diligently secured.

§3. An inventory, or catalog, of the documents which are contained in the archive is to be kept with a brief synopsis of each written document.

CCEO: Canon 256

§1. The eparchial bishop is to set up in a safe place the archive of the eparchial curia in which documents pertaining to affairs of the eparchy are to be preserved.

§2. With all diligence and care, an inventory is to be drawn up of the documents which are preserved in the archive of the eparchial curia with a brief synopsis of each of the documents.

Specifically, we can see that the CIC includes a specific note on providing particular care for records regarding a diocese or parishes, something left out of the equivalent Canon from the CCEO. While it may be safe to consider that the “affairs of the diocese” and “affairs of the eparchy” could cover the entire spectrum of records, including parochial records held by a diocese, it is still a fact that the language is left out of the CCEO canon. A later canon covers archives held in churches themselves, but the language difference in canon 486/256 remains. Additionally, the second portion of the CIC canon includes more detail than the equivalent CCEO text on the types of records kept in the diocesan archive, as well as more detail on the archival processing and security. Conversely, the last section of the CCEO canon, which describes the creation of a catalog or finding aid of the eparchial archive, includes an emphasis on “diligence and care” absent in the CIC’s inventory & summary portion. So while the CIC places more emphasis on describing the breadth of content, the organization, and the security of those records, the CCEO provides greater emphasis on the description and by extension ease-of-use and access (at least internally) of the archival material.

The next canons address the overall security of the archives. While we see similarities to the structure of the 1917 code, a change exists in that there are no longer two different keys to open the archive, but full access is reserved to the bishop and chancellor. Specific permission is still required from the bishop, or the chancellor and moderator of the curia (or protosyncellus), for anyone to enter the archives. Permission from the same people is required not only to enter the archives, but also to remove any material from the archives. Thus, canonically, the bishop or chancellor has direct control over all aspects of archival access, whether it is research within the archive or temporary removal of records.

CIC: Canon 487

§1. The archive must be locked and only the bishop and chancellor are to have its key. No one is permitted to enter except with the permission either of the bishop or of both the moderator of the curia and the chancellor.

§2. Interested parties have the right to obtain personally or through a proxy an authentic written copy or photocopy of documents which by their nature are public and which pertain to their personal status.

Canon 488

It is not permitted to remove documents from the archive except for a brief time only and with the consent either of the bishop or of both the moderator of the curia and the chancellor.

CCEO: Canon 257

§1. The archive of the eparchial curia is to be locked and the key kept by the eparchial bishop and the chancellor; no one is permitted to enter it without the permission of the eparchial bishop alone or the protosyncellus along with the chancellor.

§2. It is a right of interested parties to obtain personally or through their proxy an authentic copy of documents which are public by their nature and which pertain to the status of such persons.

Canon 258

It is not permitted to remove documents from the archive of the eparchial curia except for a brief time only and with permission either of the eparchial bishop alone or the protosyncellus along with the chancellor.

As we can see above, Canon 487/257 also contains the Catholic Church's

“freedom of information” provision regarding access. If documents are “by their nature

public”, essentially covering non-confidential material, and pertain to the status of the person seeking the record, then the person is entitled to a copy of that record. This canon would most often apply to sacramental records such as baptismal, confirmation, or marriage documentation, but would cover other types of records as well.

Next, the canons cover the creation of the private or “secret” archive within a diocese or eparchy. The canons outline the creation of the secure, confidential archive as well as the requirements for destruction and summarized documentation of records to be removed. Access to the private files is reserved exclusively to the bishop, except for extreme circumstances during “vacancy of the see”, and no removal of files is allowed.

CIC: Canon 489

§1. In the diocesan curia there is also to be a secret archive, or at least in the common archive there is to be a safe or cabinet, completely closed and locked, which cannot be removed; in it documents to be kept secret are to be protected most securely.

§2. Each year documents of criminal cases in matters of morals, in which the accused parties have died or ten years have elapsed from the condemnatory sentence, are to be destroyed. A brief summary of what occurred along with the text of the definitive sentence is to be retained.

Canon 490

§1. Only the bishop is to have the key to the secret archive.

§2. When a see is vacant, the secret archive or safe is not to be opened except in a case of true necessity by the diocesan administrator himself.

§3. Documents are not to be removed from the secret archive or safe.

CCEO: Canon 259

§1. There is also to be a secret archive in the eparchial curia or at least a secret safe in the archive of the eparchial curia, completely closed and locked, which cannot be removed from the place, and in which documents to be kept secret are preserved.

§2. Each year, the procedural acts for inflicting penalties in matters of morals are to be destroyed in which the guilty party has died, or in which ten years have elapsed, retaining a brief summary of the facts and the text of the definitive sentence or decree.

Canon 260

§1. Only the eparchial bishop may have the key to the secret archives or the secret safe.

§2. When the eparchial see is vacant the secret archive or secret safe are not to be opened except in a case of true necessity and then by the eparchial administrator

himself.

§3. Documents are not to be removed from the secret archive or secret safe.

Finally, the last canon(s) of the main canons on archives of each code covers the preservation of archives of smaller institutions within the diocese or eparchy. In addition to ensuring that archival materials are preserved within their proper localities, bishops are expected to obtain copies of the churches' archival inventories and have them available in the central archival repository – the main diocesan/eparchial archive. This takes diocesan archival access to a further level, in that the diocesan archive would be an access point to parish archives, providing a central point of information for the smaller nodes of archival preservation within a diocesan/eparchial territory.

CIC: Canon 491

§1. A diocesan bishop is to take care that the acts and documents of the archives of cathedral, collegiate, parochial, and other churches in his territory are also diligently preserved and that inventories or catalogs are made in duplicate, one of which is to be preserved in the archive of the church and the other in the diocesan archive.

§2. A diocesan bishop is also to take care that there is an historical archive in the diocese and that documents having historical value are diligently protected and systematically ordered in it.

§3. In order to inspect or remove the acts and documents mentioned in §1 and §2, the norms established by the diocesan bishop are to be observed.

CCEO: Canon 261

§1. The eparchial bishop is to see that the acts and documents of the archive of cathedral, parochial and other churches existing within the territorial boundaries of the eparchy are diligently preserved and two copies of the inventory of the acts and documents are to be made, one of which is to be preserved in the church's own archive and the other to be preserved in the archive of the eparchial curia.

§2. In order to inspect or remove the acts and documents of these archives, the norms established by the eparchial bishop are to be observed.

In these final canons, we also see the second notable difference between the CIC and CCEO codes. The CIC includes a provision indicating that an historical archive is to be kept, ensuring that records of historical value are “diligently preserved” and

“systematically ordered”. This is a change from the 1917 Code, where no such provision exists. The expressly noted care for an historical archive is also completely absent from the CCEO. Further research into the development of canon law might provide evidence for the reasoning behind the addition of this specification in the 1983 codification and its absence in the 1990 Eastern Churches’ code; however, since that is not the purpose of the study at hand it will be left for future researchers to explore.

The CIC and CCEO, albeit with some slight differences, both give a good outline of the basic, standard expectations for a diocesan or eparchial archive from an internal, administrative perspective. As Dennis W. Morrow points out in his 1981 dissertation "The Archives of the Local Church: Canonical and Professional Developments," “Establishment of archives within a diocese by a bishop...is not a luxury; it is a canonical requirement.”²⁷ However, as Morrow also points out, the code is written to be “flexible enough to be applied in vastly different situations.” This is true both on an international and a national scale. Particularly in geographically large countries such as Canada, the impact of regional populations and economic factors can have a huge influence on how things are organized within a diocesan administration.

Another significant aspect of canon law that requires deeper reflection is the “secret archive”. The structure of the “archivum secretum” complicates the notion of “archive” or even “archival material”. While canonically it is part of the archival administration of a diocese, practically, the specific materials outlined in the canon(s) above are confidential semi-active records that have a retention schedule of ten years or until the death of the subject of the records. There are usually other confidential records

27 Dennis W. Morrow, *The Archives of the Local Church: Canonical and Professional Developments* (Washington, D.C.: The Catholic University of America, 1981), 28.

kept in these files. In addition to the cases concerning matters of morals outlined in the canon(s), other records could include: registers of secret marriages, certain matrimonial dispensations, dispensations regarding impediments to ordination, documents relating to “dismissal from religious institutes” or “loss of the clerical state”, or other documents chosen by a bishop, such as to avoid damage to someone’s reputation.²⁸

The Catholic Church’s canonical approach to confidentiality, examined with an emphasis on both privacy and a right to a good reputation, is studied in great detail in Kevin E. McKenna’s 1992 dissertation, “The Right of Confidentiality and Diocesan Clergy Personnel Records.” The canon at the core of McKenna’s analysis is Canon 220 of the CIC: “No one is permitted to harm illegitimately the good reputation which a person possesses nor to injure the right of any person to protect his or her own privacy.”²⁹ McKenna applies his canonical study to a specific set of diocesan records, but argues that policies regarding use of the Secret Archive for confidential records should be “clear and consistently implemented” in order to hold any force regarding confidentiality outside of the church.³⁰ Archivists working within a diocesan context should keep in mind that some records creators could be focusing on particular canonical provisions, and might place confidential materials in the archives with the assumptions that the material will be placed in the secret archive or otherwise have complete confidential protection. However, McKenna does make clear that despite strict limitations on access to the secret archives, to the point of having them be considered by some as “not existing” under canon law, this

²⁸ Nicholas P. Cafardi, “Discovering The Secret Archives: Evidentiary Privileges For Church Records,” *Journal of Law and Religion* 10, no. 1 (1993-1994), 97. Cafardi further describes and gives examples of these types of records in his article.

²⁹ Holy See, *Code of Canon Law*, Canon 220.

³⁰ Kevin E. McKenna, *The Right of Confidentiality and Diocesan Clergy Personnel Records* (Doctor of Canon Law diss., University of Ottawa, 1990), Canadian Theses Service microfilm (National Library of Canada, 1992), 192-193.

does not mean one should assume or expect civil legal protection of the records.³¹ In fact, in the United States' court systems, precedent explicitly states that when canon laws come into conflict with the "law of the land", it is the canon law that "must yield".³² More on the precedent within Canadian law will follow below.

As for canon law, how do we reconcile the confidential material of the secret archive with the historical records available for study, and the possibly confidential, accessible records that are non-current or even historical but not public? Some seeking access may encounter diocesan archives that do not have the staff or resources to track the material in the archives diligently. These archives dramatically reduce all access except when absolutely required to provide it, in order to protect against any unintended breach of confidentiality due to inability to properly assess files' contents on a regular basis. While unfortunate, and not ideal given the expectations of canon law for proper ordering and access to some content in a historical archive, a completely closed archive informed by a tradition of confidentiality is not outside the reality of practice. These particular layers of access tend to be shaped by national and local bishops' prescriptions, being applications of archival policies and practices rather than the official canons of law. Some aspects of archival administration have even attracted recommendations from the Vatican Curia in order to assist with international standardization, and the more recent of these propositions is explored in more detail in the following chapter.

³¹ Ibid., 194-195.

³² Cafardi, 99.

Corporate Law

The next layer of the legal sphere encompassing Canadian Catholic diocesan archives is the sphere of corporate law. In terms of civil law, Canadian Catholic dioceses exist as non-profit, charitable corporations. However, they are not all structured identically. Canadian law is largely the inheritor of English Common Law, and from this tradition came the structure of Canadian dioceses as a Corporation Sole, in which the bishop or diocese owns all parishes' properties rather than the parishes owning their properties themselves.³³ Québec's civil code, with a legal inheritance from the French colonial era, has a unique structure in which bishops are incorporated under the Roman Catholic Bishops Act but parishes are incorporated under The Act Respecting Fabriques.³⁴ The preference evidenced in canon law tradition and updates to canon law in 1983 is for the independent nature of a diocesan corporation, both canonically and civilly, from the parishes of that diocese.³⁵ As the Reverend Eric Dunn noted in 2011,

The Civil Incorporation of Parishes is a concept that is not new to the Church and, if the truth be known, the preference of the Holy See would be that the Corporation Sole be eliminated in North America.³⁶

In December 2005, Canada's Apostolic Nuncio Luigi Ventura sent a letter to Canadian Bishops indicating the need to change diocesan corporate structures existing as Corporation Sole and moving towards independently incorporated diocesan and parish

³³ Michael Swan, "P.E.I. Diocese Undergoes Corporate Reorganization," *The Catholic Register*, 4 May 2011, <http://www.catholicregister.org/item/5505-pe-i-diocese-undergoes-corporate-reorganization>, accessed 14 March 2016.

³⁴ Thomas Dowd, "Parish and fabrique: an introduction", *Waiting In Joyful Hope*, 3 December 2008, <http://bishopdowd.net/home/node/112>, accessed 30 March 2016.

³⁵ Eric J. Dunn, "The Civil Incorporation of Parishes," (paper presented at annual convention of the Canadian Canon Law Society/Société Canadienne de Droit Canonique, 24-27 October 2011, Cornwall, ON), 163 (http://www.ccls-scdc.ca/News/NL001_2012/2011_Conv/18.%20Dunn.pdf, accessed 30 March 2016).

³⁶ Dunn, Civil Incorporation, 163.

bodies.³⁷ As recently as 2011, the Diocese of Charlottetown in PEI underwent the recommended corporate reorganization.³⁸ The particular concern in Canada to shift diocesan corporate structures was likely influenced by the closure of the Canadian diocese operating as the Catholic Episcopal Corporation of St. George's (a Corporation Sole of the bishop), following the 2004 court decision in *John Doe v. Bennett* that the episcopal corporation was liable in the case of abuse.³⁹ With these statements in mind, one could consider the general norm for Canadian diocesan corporations in the future to be bodies incorporated as non-profit charitable entities, corporally independent from their parishes.

Whether a diocese is legally incorporated at the provincial or federal level can also have an impact on access to archival records. While this may not truly affect the collecting practice of the archive, it may come into play when considering which provincial legislation would apply to the corporate entity's records. While certainly non-profit status is regulated under Canadian tax laws, and the physical location of the diocese would determine provincial jurisdiction, the corporate identity as either nationally or provincially incorporated is useful for an archivist to be aware of because corporate legislation and regulations are applicable to the records created by the archdiocese as a corporation.

Furthermore, while not necessarily a corporate matter, it is important for archival administrators to know the past territories of a diocese, and to what extent the records of

³⁷ *Ibid.*, 164.

³⁸ Swan, "Corporate Reorganization".

³⁹ *John Doe v. Bennett* [2004] 1 SCR 436, 2004 SCC 17. <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2129/index.do?r=AAAAAQATQ2FuYWV2aWRlbnNlIEFjdAE>, accessed 17 February 2016.

the diocese were created in or by or about parts of the community no longer in the territory covered by that diocese. This may be especially important in cases where the records cover communities across both Canadian and ecclesiastic provincial boundaries. Dioceses historically covering a particular region may have retained records, whether purposefully or by happenstance, about communities or locations no longer under their jurisdiction. Knowing the records as well as their jurisdictional history can become relevant to possible demands on or for those records. Conversely, knowing the history of the diocesan region can be helpful in redirecting research inquiries for records that are not actually held in a diocese, particularly if the archival material pre-dates the establishment of the diocese itself.

Remembering that Catholic diocesan bodies are corporate entities is useful for archivists, especially in the Canadian context, as it gives diocesan archivists and archival administrators an external frame of reference both for their own work and in explaining their work to others. While researchers and others may not understand canon law on archives, they may better understand the nature of private corporate entities, especially commercial corporations. A researcher would not necessarily expect to be given admittance to the archives of an insurance firm or an international restaurant chain, even if he or she has been a client or consumer of that corporation or their products for decades. The Scotiabank Archives, an example of a corporate entity holding archives of both the business and community, is a private corporate archive that provides research access to historical collections; it is recognized as a rarity for providing even this partial

accessibility.⁴⁰ Providing a frame of reference for the tensions between privacy and access to historical records for such comparable entities is useful for archivists, as it helps both internal and external researchers to develop realistic access expectations from a non-canonical perspective.

Canadian Law

Canadian law addresses documents and archives at every level, from parliamentary procedure to national and provincial legislation, to municipal and local laws or by-laws. However, it is the ways in which these laws apply to the records of private corporate entities that are of particular relevance for Catholic diocesan archives in Canada. The section below will provide a general overview of the information laws which do or do not apply to non-profit corporations that fall under their jurisdiction.

To start, it is important to acknowledge the powers of parliament over all types of records within the nation it governs. In his 1999 sourcebook, *The Power of Parliamentary Houses to Send for Persons, Papers & Records*, Derek Lee provides an overview of the laws and historical precedents for the various ways in which the Canadian parliament, senate, and by extension committees of these bodies, are able to demand the production of people and documentation for their purposes.⁴¹ Lee notes that with few exceptions – such as the royal head of state and royal representatives, the jurisdiction of other governing bodies, or foreign jurisdictions – the Canadian houses of parliament have “the full authority to summon and compel the attendance and testimony

⁴⁰ Scotiabank Media Communications, “Canada's only corporate archives fully available to public recognized by Archives Association of Ontario”, *CNW*, Toronto: 30 May 2013, <http://www.newswire.ca/news-releases/canadas-only-corporate-archives-fully-available-to-public-recognized-by-archives-association-of-ontario-512496531.html>.

⁴¹ Derek Lee, *The Power of Parliamentary Houses to Send for Persons, Papers & Records: A Sourcebook on the Law and Precedent of Parliamentary Subpoena Powers for Canadian and Other Houses* (Toronto: University of Toronto Press, 1999).

of any person, and to summon and compel the production of any document.”⁴²

Specifically, with records requests, Lee notes that documents would first be requested informally, and if documents are not produced a formal motion ordering production of the records would be adopted.⁴³ Ongoing refusal to produce records could result in a search by officers of the law or other legal proceedings, summarized by Lee as “penal powers to compel compliance.”⁴⁴

In regard to archival access, these legislative powers provide for the ability of parliamentary houses to call for any record produced within their jurisdiction to be brought before the house or empowered committees of the house. Provisions and precedent exist for maintaining confidentiality of material and persons, as outlined by Lee.⁴⁵ So if material requested from an archival source is considered confidential, requests could be made for confidential handling of the material in the parliamentary setting. This power of the parliamentary houses could apply blanket access to any records held by a Catholic diocese in Canada, archival or otherwise, if they were truly needed for the functioning of the houses. While a rare instance, given the blanket application across the country, this is a legal access point worth acknowledging.

Another point of access could arise from major legal agreements, also uncommon in terms of day-to-day diocesan archival access provision. A significant recent example is the Truth and Reconciliation Commission of Canada’s mandate to collect relevant archival material from signatories, as agreed upon in the Indian Residential Schools

⁴² Ibid., 1.

⁴³ Ibid., 45

⁴⁴ Ibid., 46-50.

⁴⁵ Ibid., 72-78.

Settlement Agreement, whose signatories included many Catholic diocesan entities.⁴⁶

The commission itself was created in 2006 as a result of the Indian Residential Schools Settlement Agreement.⁴⁷ Schedule “N” of the agreement consists of the Mandate for the Truth and Reconciliation Commission (TRC), and section 11 has the regulations for Access to Relevant Information.⁴⁸ This section lays out the agreement to provide access to relevant documentary records by all signatories. Furthermore, once records became part of the documentary collection of the TRC placed in the National Centre for Truth and Reconciliation (NCTR) at the University of Manitoba they became subject to Manitoba's Freedom of Information and Protection of Privacy Act as well as Personal Health Information Act. Provincial legislation in Manitoba was also developed specifically to provide an access and privacy framework for the NCTR.⁴⁹ Thus, records held at the NCTR collected from Catholic diocesan archives in Canada would come under the legislation applicable to the NCTR in that context.

Both legal agreements as well as laws applying to records held externally become important examples of secular law for archival administrators of access to Catholic diocesan archives to acknowledge. Legislation that applies to private, university or public archives which place Catholic diocesan records under unique donor agreements may also end up governing historical diocesan archival material preserved under custodial agreements of those sorts. Examples of diocesan archival records held in trust include the preservation of Archdiocese of St. Boniface's records at the Centre du Patrimoine in

⁴⁶ *Indian Residential Schools Settlement Agreement*, Schedule “N”, 8 May 2006, 10-11.
http://www.residentialschoolsettlement.ca/SCHEDULE_N.pdf, accessed 10 April 2016.

⁴⁷ Julian Walker, *The Indian Residential Schools Truth and Reconciliation Commission*, PRB 08-48E, Ottawa: Library of Parliament, 11 February 2009.

⁴⁸ *Indian Residential Schools Settlement Agreement*, Schedule “N”, 10-11.

⁴⁹ Bill 6, *The National Research Centre for Truth and Reconciliation Act*, 4th Session, 40th Legislature, S.M. 2015, c. 2, <http://web2.gov.mb.ca/laws/statutes/2015/pdf/c00215.pdf>.

Winnipeg, Manitoba under the care of the La Société historique de Saint Boniface, and the care of the United States of America's Youngstown Diocese records at the archives of Kent State University in Kent, Ohio.⁵⁰ Records of religious orders can also be found in provincial archives, such as Oblate records in the Provincial Archives of Alberta, and these provide further examples of access complexities relating to canonically-governed Catholic archival materials.⁵¹

Beyond these unique cases, the question remains as to which national and provincial laws apply to Catholic diocesan records when held within the confines of Canadian diocesan archives. To begin, the national legislation for private sector information is the *Personal Information Protection and Electronic Documents Act* (PIPEDA), enacted in 2000. As non-profit corporations, Canadian Catholic dioceses' records do not fall under this legislation unless the corporate entity engages in commercial activities.⁵² While this legislation does not apply, knowledge of this legislation may inform the access standards expected by the public. As such, diocesan archival administrators should be aware of the legislation and consider whether they want to use PIPEDA as an access guideline for any of their diocesan records. For example, section 7(3)(h) of the legislation might be helpful in setting a standard for disclosure of documents including the names of individuals:

(3) For the purpose of clause 4.3 of Schedule 1, and despite the note that accompanies that clause, an organization may disclose personal information without the knowledge or consent of the individual only if the disclosure is

⁵⁰ Pierre Hurtubise, "Le Devoir de Mémoire: Pourquoi il faut assurer dès maintenant l'avenir de nos archives religieuses," *Studia Canonica* 42, no. 2 (2008): 336.

⁵¹ Ibid., 336-338. See also Provincial Archives of Alberta, "Faith Organizations," *In the Archives - Research Resources*, <http://culture.alberta.ca/paa/archives/research/faith.aspx>, accessed 11 June 2016.

⁵² Office of the Privacy Commissioner of Canada, "The Application of the Personal Information Protection and Electronic Documents Act to Charitable and Non-Profit Organizations", *Fact Sheets* (2004), https://www.priv.gc.ca/resource/fs-fi/02_05_d_19_e.asp, accessed 20 February 2016.

- ... (h) made after the earlier of
- (i) one hundred years after the record containing the information was created, and
 - (ii) twenty years after the death of the individual whom the information is about.⁵³

Moving on to provincial jurisdictions, very few provinces have legislation that applies to diocesan records if the dioceses operate as not-for-profit corporate entities. The access to information and privacy protection legislation of the provinces generally applies only to the government and public bodies of the province where the legislation is enacted, though exceptions and extensions do exist. The records and information laws of New Brunswick, Newfoundland & Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Saskatchewan, and Yukon do not apply to Canadian Catholic dioceses as non-profit corporations. However, in Alberta, British Columbia, Manitoba, and Québec, access and privacy protection legislation exists that covers the records of private organizations. Ecclesiastical corporations operating in those provinces are required to follow the applicable legislation in each case.

To begin, Québec's diocesan archives would be included with the organizations to which the province's *An Act Respecting the Protection of Personal Information in the Private Sector* (ARPPIPS) applies.⁵⁴ In force since 1994, this legislation was the first enacted by a Canadian governing body to address private sector information privacy.⁵⁵ It includes in Division I, Section 1 an exemption for "journalistic, historical or genealogical

⁵³ *Personal Information Protection and Electronic Documents Act, Statutes of Canada* 2000, c. 5, <http://laws-lois.justice.gc.ca/eng/acts/P-8.6/>, accessed 20 February 2016.

⁵⁴ *An Act Respecting the Protection of Personal Information in the Private Sector*, R.S.Q. c. P-39.1, http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/P_39_1/P39_1_A.html, accessed 20 February 2016.

⁵⁵ Privacy Commissioner of Canada, *Learning from a Decade of Experience: Quebec's Private Sector Privacy Act, Canada*, 2005, https://www.priv.gc.ca/information/pub/dec_050816_e.pdf, accessed 20 February 2016.

material collected, held, used or communicated for the legitimate information of the public,” and because of this would not apply to diocesan archival records of a historical nature that are wholly open to the public.⁵⁶ As for other material held in diocesan archives, provisions in section 18.2 of ARPPIPS may apply:

A person carrying on an enterprise may, without the consent of the person concerned, communicate personal information contained in a file concerning another person to an archival agency if the archival agency is a person carrying on an enterprise whose object is the acquisition, preservation and distribution of documents for their general informational value and if the information is communicated as part of the transfer or deposit of the archives of the enterprise.

A person carrying on an enterprise may also communicate personal information to any person without the consent of the person concerned if the document containing the information is more than 100 years old or if more than 30 years have elapsed since the death of the person concerned. However, no information relating to a person's health may be communicated without the consent of the person concerned unless 100 years have elapsed since the date of the document.

Notwithstanding the first and second paragraphs, the information may be communicated for research purposes, without the consent of the person concerned, before the time specified has elapsed if the documents containing the information are not structured so as to allow retrieval by reference to a person's name or identifying code or symbol and the information cannot be retrieved by means of such a reference. The person to whom the information is communicated must preserve the confidentiality of the personal information throughout the period during which it may not be communicated without the consent of the person concerned.⁵⁷

One particular consideration for Québec's ARPPIPS and the application of the legislation to Catholic diocesan records in Québec is that it does not apply to the records created as part of ecclesiastic tribunal proceedings.⁵⁸ As determined by the Commission d'accès à l'information du Québec in *Rochette v. Tribunal Ecclésiastique de Québec*, A.I.E. 2004AC-2 (CAI), these records do not constitute records created by a religious

⁵⁶ *Act Respecting the Protection of Personal information in the Private Sector*, Section 1.

⁵⁷ *Ibid.*, Section 18.

⁵⁸ Privacy Commissioner of Canada, *Learning from a Decade of Experience*, 7.

institution in carrying on an enterprise, and freedom of religion was given precedence over privacy rights in that case.⁵⁹ It is possible that this ruling could be used as a precedent for other jurisdictions in Canada, but until tested under applicable private-sector privacy legislation in other provinces, it is hard to say whether the 2004 Québec decision would affect challenges to tribunal records access under other laws.

In Alberta, the *Personal Information Protection Act* (PIPA) has been in effect since 2003.⁶⁰ Alberta's PIPA clearly identifies exemptions that likely apply to some materials held in diocesan archives. Section 4(3) lists the groups or records to which the legislation does not apply, and includes exemptions for:

- (h) personal information about an individual if the individual has been dead for at least 20 years;
- (i) personal information about an individual that is contained in a record that has been in existence for at least 100 years;
- (j) personal information contained in any record that
 - (i) was transferred to an archival institution before the coming into force of this Act where access to the record
 - (A) was unrestricted before the coming into force of this Act, or
 - (B) is governed by an agreement entered into by the archival institution and the donor of the record before the coming into force of this Act,
 - or
 - (ii) is transferred to an archival institution after the coming into force of this Act where access to the record is governed by an agreement entered into by the archival institution and the donor of the record before the coming into force of this Act.⁶¹

Since these sections very directly apply to archival materials, this may mean the legislation is not relevant for some of the diocesan records. However, given the diversity of records in diocesan archives and the fact that dioceses are active and operational

⁵⁹ Ibid.

⁶⁰ *Personal Information Protection Act, Statutes of Alberta* 2003, Chapter P-6.5.
http://www.qp.alberta.ca/1266.cfm?page=P06P5.cfm&leg_type=Acts&isbncln=9780779762507, accessed 20 February 2016.

⁶¹ Ibid.

corporations that are continuously creating records, the legislation will apply to at least some of the records in diocesan archives in Alberta.

British Columbia's 2003 *Personal Information Protection Act* (PIPA) applies to "every organization" but again includes some exemptions of interest for diocesan archives.⁶² In particular, section 3(2) states that the act does not apply to, "(f) personal information in a note, communication or draft decision of the decision maker in an administrative proceeding" where proceeding is defined as, "a civil, a criminal or an administrative proceeding that is related to the allegation of (a) a breach of an agreement, (b) a contravention of an enactment of Canada or a province, or (c) a wrong or a breach of a duty for which a remedy is claimed under an enactment, under the common law or in equity."⁶³ Given the possibility of both business and tribunal records held in diocesan archives, there is the possibility of the exception of certain of those records from this legislation. Additionally, under subsection 3(2)(i), we see that the law does not retroactively affect the collection of information done prior to the enactment of the legislation, though would still apply to the records themselves.⁶⁴

British Columbia's PIPA also includes in Part 6 a section 22 subtitled "Disclosure for archival or historical purposes."⁶⁵ This section is similar to the federal and other provinces' legislation with a temporal access point of 100 years from record creation or 20 years after death, but with additional categories of access clearance:

22 An organization may disclose, without the consent of the individual, personal information for archival or historical purposes if

⁶² *Personal Information Protection Act, Statutes of British Columbia* 2003, c. 63, http://www.bclaws.ca/Recon/document/ID/freeside/00_03063_01, accessed 20 February 2016.

⁶³ *Ibid.*, Section 1.

⁶⁴ *Ibid.*, Section 3.

⁶⁵ *Ibid.*, Section 22.

- (a) a reasonable person would not consider the personal information to be too sensitive to the individual to be disclosed at the proposed time,
- (b) the disclosure is for historical research and is in accordance with section 21,
- (c) the information is about someone who has been dead for 20 or more years, or
- (d) the information is in a record that has been in existence for 100 or more years.⁶⁶

Manitoba's provincial legislation that covers personal information protection is the most recent of this group, the act having only been proclaimed in 2013.⁶⁷ The applications and exemptions of *The Personal Information Protection and Identity Theft Prevention Act* (PIPTPA) include archival considerations similar to the other provinces' laws, as seen in section 4(3) which indicates that PIPTPA does not apply to:

- (h) personal information about an individual if the individual has been dead for at least 20 years;
- (i) personal information about an individual that is contained in a record that has been in existence for at least 100 years;
- (j) personal information contained in any record transferred to an archival institution where access to the record was unrestricted or governed by an agreement between the archival institution and the donor of the record before the coming into force of this Act⁶⁸

There is also an exemption similar to that of the British Columbia legislation that could possibly cover internal business proceedings or tribunal records, which creates an exception for "(o) personal information contained in a personal note, communication or draft decision created by or for a person who is acting in a judicial, quasi-judicial or adjudicative capacity."⁶⁹

⁶⁶ Ibid.

⁶⁷ *The Personal Information Protection and Identity Theft Prevention Act, Statutes of Manitoba* 2013, c. 17, <http://web2.gov.mb.ca/laws/statutes/2013/c01713e.php>, accessed 20 February 2016.

⁶⁸ Ibid., Section 4.

⁶⁹ Ibid.

PIPITPA also includes provisions for archival use that cover disclosure of personal information without consent of the person in question. These are outlined as the last two clauses of Section 17, providing clearance for use when:

- (k) the organization using the information is an archival institution and the use of the information is reasonable for archival purposes or research;
- (l) the use of the information meets the requirements respecting archival purposes or research set out in the regulations and it is not reasonable to obtain the consent of the individual whom the information is about.⁷⁰

Section 20 covers disclosure of information without consent, and the list of valid disclosures under the law includes the same two clauses as 17(k) and 17(l) above as 20(p) and 20(q), but with “disclosure” in place of “use”.⁷¹ The general regulations section of PIPITPA, section 42(1), also grants power to the Lieutenant Governor in Council to create regulations additional to PIPITPA. Subclause 42(1)(e) explicitly indicates the ability to determine regulations, “governing the collection, use and disclosure of personal information for archival purposes or research and respecting requirements concerning archival purposes or research.”⁷² As such, it is possible that either general or specific regulations regarding archival disclosure of personal information could come into effect that diocesan archival administrators in Manitoba would need to be aware of and apply to the records in the diocesan archives.

Though legislation may differ by province, and in some places not apply at all, the laws for information access and privacy protection as they apply to other private-sector institutions provide a good starting point for Canadian Catholic diocesan archives’ administrators to make decisions about how and when they will provide access to their

⁷⁰ Ibid., Section 17.

⁷¹ Ibid., Section 20.

⁷² Ibid., Section 42.

materials. There are also laws regarding information protection beyond the private sector records that may impact diocesan archives in Canada. For instance, if the diocesan archives of any province contain personal health information or records created in coordination with government bodies for the purpose of the provision of social services, one should assume that the federal and provincial legislation governing health or personal information would apply to those specific sets of records. However, as this is a case-by-case issue beyond the scope of general archival access, it will not be addressed in detail here. Yet all Catholic diocesan archives administrators who encounter these records types should ensure that they familiarize themselves with the federal and provincial health and personal information legislation for their region. Additionally, all material with health or personal information collected as part of the provision of health care or other public social services should be placed in clearly marked folders or boxes to facilitate proper care of these sensitive materials.

Preparation for the proper procedure regarding potential access requests for records containing health and personal information will help to avoid any improper release of private information, and will assist with correct legal provision of information and improved services from the archive in the cases where information provision is allowed. Some archives' administrators may want to go as far as placing a printed copy of the relevant pages of legislation, or some other formal statement containing reference to the legislation, within boxes containing sensitive materials of this type. This can serve to remind the administrators themselves, or others interacting with the records, that specific laws apply to accessing the content of those records.

Legal Interrelationships

The relationships between these three sets of law have been partially articulated for when they apply to legal topics outside the realm of archives. One example is M.H. Ogilvie's analysis of the legal relationships relating to temporal goods belonging to Ecclesiastic Corporations, specifically land ownership.⁷³ Ogilvie, an expert on relationships between religious structures and the law in Canada, examined the outcome of the 1987 Ontario Court of Appeal case *Re Incorporated Synod of the Diocese of Toronto and H. E. C. Hotels Ltd.*⁷⁴ She argued that it resolved the question of whether an incorporated religious organization was first subject to its own special statute (such as provincial acts of incorporation), or to general statutes for religious organizations or non-profit corporations. While the case in question was one of property owned by an Anglican diocese, Ogilvie repeatedly notes the incorporation and governance structures of other religious organizations, including Roman Catholic entities. Ogilvie's examination determined that when the Ontario Court of Appeal upheld the primacy of an Ecclesiastical Corporation's "special statute" when in conflict with general statutes, it clarified one of the issues of legal "overlap" that had been in existence in various provinces since at least the 1820s.⁷⁵ Ogilvie further extrapolates the significance of the case to be, "that religious organizations be permitted to determine their own temporal destinies in Canada."⁷⁶

⁷³ M. H. Ogilvie, "The Legal Status of Ecclesiastical Corporations," *Canadian Business Law Journal* 15 (1989): 74-88.

⁷⁴ *Ibid.*, with case cited as: (1987), 44 D.L.R. (4th) 161, 61 O.R. (2d) 737, revg 56 O.R. (2d) 797 (H.C.J.) (Fitzpatrick J.).

⁷⁵ *Ibid.*, 74, 79-81.

⁷⁶ *Ibid.*, 88.

While Ogilvie's analysis specifically takes into consideration land ownership and transfer, the conclusion that religious organizations are permitted to "determine their own temporal destinies" becomes important when considering private records of a diocesan archive as temporal goods rather than spiritual goods. The content of diocesan records can be considered documentation of a spiritual, historical, economic, or other evidentiary nature, and when the content is needed for one of those purposes the records may fall under different considerations. However, at a basic level the physical (and digital) records can be considered temporal goods belonging to the ecclesiastical corporation of a diocese.

Another analytical overview that addresses the intersection of civil and canon laws in Canada, this time for a specifically Catholic context, is Gregory J. Zubacz's *The Seal of Confession and Canadian Law*.⁷⁷ Here the focus is on how the seal of confession has and has not been recognised through the history of the Canadian legal tradition, along with an analysis of canonical regulations and penalties regarding the seal of confession. The canonical expectations, which could potentially affect an archival administrator, are summarized by pointing directly to Canon 983:

§1. The sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason.

§2. The interpreter, if there is one, and all others who in any way have knowledge of sins from confession are also obliged to observe secrecy.⁷⁸

This canon, beyond the canons on archival administration, could directly impact archival access based on content. If the archivist or administrator providing access comes

⁷⁷ Gregory J. Zubacz, *The Seal of Confession and Canadian Law*, Gratianus Series (Montreal: Wilson & Lafleur, 2009).

⁷⁸ Holy See of the Roman Catholic Church, *1983 Code of Canon Law*, English Translation (Washington, D.C.: Canon Law Society of America, 1998), <http://www.vatican.va/archive/ENG1104/___P1P.HTM>, accessed 1 March 2016.

across material of such nature, it is canonically expected that they would not only ensure the privacy of the record, but that they would bound to secrecy regarding the content. However, conflicts might occur between canon and civil legal requirements, and Zubacz looks at various courts' legal proceedings and provincial and federal laws to investigate how these conflicts might be shaped.

Zubacz's monograph is focused on analysis from a legal proceedings perspective as opposed to one of archival access, yet his observations bring to light some considerations for evidentiary use of private archival materials of a confidential, personal nature. The focal point of Zubacz's permissible-evidence analysis, which could apply to archival records, is the Canadian courts' precedent of applying "The Wigmore criteria" to concealment of evidence from trials.⁷⁹ Zubacz outlines the criteria as follows:

- 1) The communication must originate in a *confidence* that they will not be disclosed.
- 2) This element of *confidentiality must be essential* to the full and satisfactory maintenance of the relation between the parties.
- 3) The *relation* must be one which in the opinion of the community ought to be sedulously fostered.
- 4) The *injury* that would inure to the relation by the disclosure of the communications must be *greater than the benefit* thereby gained for the correct disposal of the litigation.⁸⁰

While Zubacz examines these criteria and application in great depth, the cases examined are largely outside the scope of archival considerations. However, he does include at least two examples for the use of these criteria in trial proceedings that have implications for archival records.

⁷⁹ Zubacz, 156-164.

⁸⁰ Ibid., 140-141. Italics for emphasis from source. Zubacz cites, "[John Henry Wigmore, *Evidence in Trials at Common Law*], op cit., fn. 281, §2285."

The first of these examples was the 1987 Ontario Court of Appeal case of *Re Church of Scientology and The Queen (No.6)*⁸¹, which deals specifically with records seized under a search warrant.⁸² Zubacz indicates that some of the documents seized contained records with titles such as “pastoral counselling folders” and “ethics files”, and that the Church of Scientology argued that these should be returned due to a religious communications privilege.⁸³ Zubacz details decisions outlined in the court proceedings (including the validity of the search warrant), emphasizing the ruling by the court that the admissibility of the evidence found in the records would be determined on a case-by-case basis taking into consideration past case law, the Canadian Charter of Rights and Freedoms and the Wigmore criteria. The implication here is that diocesan archival administrators are required to provide access to records under search warrants. This is further emphasized in the Canadian Council for Catholic Bishops’ 1998 document, *Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents*.⁸⁴ However, the *Guidelines* do go one step further to recommend procedures for potential searches, including verifying the warrant, contacting legal counsel, and insisting upon placing sensitive documents in sealed envelopes and seeking agreement from officers conducting the search that the envelopes will remain sealed until such a time that a judge can determine whether evidentiary privileges for religious communications would apply to any of the records in question.⁸⁵ However, policies may vary by diocese, and while the

⁸¹ Ibid. Zubacz cites case as: (1987), 19 O.A.C. 321, 31 C.C.C. (3d) 449.

⁸² Ibid., 159.

⁸³ Ibid., 159-160.

⁸⁴ Episcopal Commission for Canon Law/Inter-Rite of the Canadian Conference of Catholic Bishops, *Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents* (Ottawa: Canadian Conference of Catholic Bishops, 22 June 1998).

⁸⁵ Episcopal Commission, *Guidelines for the Conservation*, “Police Searches”, 6.

guidelines from the CCCB for these types of legal interactions are the recommendations, a given diocese may have different procedures laid out by a bishop or chancellor.

A second example is of a case involving private journals from the British Columbia Court of Appeal.⁸⁶ The case involved a request for production of private childhood diaries, which two psychiatrists testified would be detrimental to the healing of the author of the diaries. Zubacz details the courts adaptation of the Wigmore criteria in the decision to refuse to demand the records.⁸⁷ While Zubacz outlines how this may apply to personal documents recording information shared under the seal of confession⁸⁸, it is worth recognizing that these access considerations could apply to private, personal journals of past bishops, priests, and other religious men and women that might have been deposited in an archive. On occasions the content of such journals may be approved for use in many useful ways, such as the longitudinal “Nun Study” begun in 1986 using the records of the School Sisters of Notre Dame in the United States.⁸⁹ The study made a major contribution to how Alzheimer’s disease is understood, but the uses of the records were very carefully monitored and met strict confidentiality guidelines.⁹⁰ When access to sensitive, personal material is requested, whether for legal, scientific, historical, or other purposes, clear acknowledgement and respect for the expected privacy of the materials is of extreme importance prior to making any of the records’ contents available. The proper approval from the person (if living), the bishop or chancellor of the diocese holding the records or the religious orders’ superiors (if deceased), and the correct legal channels (if

⁸⁶ Zubacz, 188. Case cited as: *V. v. R.*, (1994) 118 D.L.R. (4th) 699 (B.C.C.A.).

⁸⁷ *Ibid.*, 188.

⁸⁸ *Ibid.*, 189.

⁸⁹ Gari-Anne Patzwald and Carol Marie Wildt, “The Use of Convent Archival Records in Medical Research: The School Sisters of Notre Dame Archives and the Nun Study,” *The American Archivist* 67 (2004): 86-106.

⁹⁰ *Ibid.*, 89-92.

courts are involved) are all especially necessary when it comes to access to confidential materials.

A diocesan archive is not a public archive, yet it may contain records of public importance or that are publicly legislated. As such, researchers may assume that public access laws and practices apply even when they do not. Diocesan archivists need to understand what records they hold and how both internal and external laws apply in order to confidently create and apply access policies and practices for their archival holdings. This will allow archivists to articulate access in reference to both public and private entities that researchers may be familiar with, and it will give administrators both public and private archival reference points for archivists when it comes to developing their own internal expectations. The laws and standards of both corporate and public archives in Canada, in addition to the canon laws that apply to archives, are vital for the smooth functioning of Canadian Catholic diocesan archives.

Chapter Three: Recommendations and Resources for Diocesan Archival Policies and Practice

The previous chapters have provided an outline of the history of Catholic dioceses' development as archival institutions, as well as explained the internal and external legal forces affecting what and how records can be accessed in a diocesan archive. From these contextual roots grow the realities of policy and practice among Catholic diocesan archives in Canada. Many factors have an impact on how archival access is carried out, and the following pages contain an analysis of the international, national, local, and individual factors that provide the framework within which Catholic diocesan archival policy and practice in Canada are situated.

As mentioned in chapter one, many examples and prescriptions exist from outside Canada that likely inform the ways in which diocesan archival administrators form their archival policy and everyday practice. In terms of access, at least two large-scale English-language resources exist that address this particular theme specifically for the diocesan archival experience. James M. O'Toole's *Basic Standards for Diocesan Archives: A Guide for Bishops, Chancellors, and Archivists* from 1991, and the 1997 encyclical *The Pastoral Function of Church Archives* from the Pontifical Commission for the Cultural Heritage of the Church (PCCHC).¹ While both are somewhat outdated in 2016, given that they do little to address the realities of digital technologies, both have formed the way diocesan archival practice in North America has developed. They are starting points on

¹ James M. O'Toole, *Basic Standards for Diocesan Archives: A Guide for Bishops, Chancellors, and Archivists* (Chicago: Association of Catholic Diocesan Archivists, 1991); Pontifical Commission for the Cultural Heritage of the Church, *The Pastoral Function of Church Archives* (Vatican City: 2 February 1997). http://www.vatican.va/roman_curia/pontifical_commissions/pcchc/documents/rc_com_pcchc_19970202_archivi-ecclesiastici_en.html, accessed 1 May 2016.

which access frameworks can and have been built among Canadian diocesan archives, and as such remain useful resources to consider.

The most important English-language statement on Catholic diocesan archival practice to be developed in Canada came from the Episcopal Commission for Canon Law/Inter-Rite of the Canadian Conference of Catholic Bishops in 1998 under the title *Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents*.² These very practical and summary guidelines provide a Canadian source to supplement the O'Toole guide and the PCCHC's letter, and provide a useful foundational standard.

Two other major sources containing diocesan archival policy and practice recommendations have emerged in more recent years, one of them Canadian, but neither of them in English. In 2001 an edited collection of essays in Italian was published by the I.S.U. Università Cattolica in Milan with the title *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione*.³ Filled with excellent essays on the history and development of Catholic Church archives in Italy and the Vatican, along with more modern considerations, the collection includes all known Vatican-issued proclamations regarding church archives and similar statements from other Italian sources from 1563 to 1993.⁴

In 2009, the Assemblée des chanceliers et chancelières du Québec published an additional resource on Catholic archives, briefly covering the history of the Catholic Church in Canada, along with guidelines for both policy creation and actual practice in

² Episcopal Commission for Canon Law/Inter-Rite of the Canadian Conference of Catholic Bishops, *Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents* (Ottawa: Canadian Conference of Catholic Bishops, 22 June 1998).

³ Angelo Giorgio Ghezzi, *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione* (Milano: I.S.U. Università Cattolica, 2001). Title translates into English as *Ecclesiastical Archives: Issues, Tools, Legislation*.

⁴ Ibid.

the administration of diocesan as well as parish archives.⁵ The book, *Les archives ecclésiales, diocésaines et paroissiales: Patrimoine archivistique de l'Église catholique – Origine, Conservation, Perspective*, is the most recent and useful resource for Canadian Catholic diocesan archival administration and worth examination even by non-French-speaking archival administrators across Canada.⁶

Defining Active Access

While examining the various resources most relevant for policy and practice available to Catholic diocesan archival administrators working within Canada, the term “active access” will be considered. This term is meant to be at once theoretical and practical, encompassing both the thinking and purpose behind actively providing access and information about accessibility, as well as shaping the practical ways in which information and actual access are provided by archivists. Active access is about both policy-thinking and practice-acting, and the concept will be threaded through the analysis and conclusions in both this chapter and the next. It is the recommendation of this author that active access become the primary force behind the policies and practices of access provision, as supported by the resources discussed in this chapter.

Active access is about both theory and practice. It is meant to embody the activities of actively promoting and providing effective tools for broad access, including the dissemination of information about access in addition to facilitating access itself.

Active access exists across the spectrum from *passive permission*, a term used here to

⁵ Assemblée des chanceliers et chancelières du Québec. *Les archives ecclésiales, diocésaines et paroissiales: Patrimoine archivistique de l'Église catholique – Origine, Conservation, Perspective*, Gratianus Series (Montréal: Wilson & Lafleur, 2009).

⁶ Ibid. Title translates to *Church Archives, Diocesan and Parochial: Archival Heritage of the Catholic Church – Origin, Conservation, Perspectives*.

describe the practice of only providing information about access and limited accessibility to materials. This term applies when a researcher, whether internal to the diocesan administration or external to the diocese entirely, does the work to uncover the existence of the archival materials and requests access to them without knowledge of the institution's access procedures, if any exist at all, and perhaps without knowledge of what the archives even contain. The notion of actively barring access is at the furthest end of this spectrum, and is the antithesis of active access.

Resources and Recommendations from Outside Canada

Returning to analysis of resources, since the Pontifical Council's document comes from the Roman Curia for the whole of the Catholic Church, and therefore is intended to have a global influence, this will be the first document to be analyzed. O'Toole's text follows more closely on the tails of the 1983 canon law updates. The O'Toole guide has been used in Canada, but will be examined following the international resources from further afield and before the specifically Canadian recommendations.

The Pontifical Commission Preserving the Patrimony of Art and History was created in 1988⁷ in Rome, and from its work emerged the Pontifical Commission for the Cultural Heritage of the Church in 1993.⁸ The PCCHC, whose mandate included care of archival resources, was responsible for

Presiding over the guardianship of the historical and artistic patrimony of the entire Church... collaborating in the conservation of this patrimony with the

⁷ John Paul II, *Pastor Bonus*, articles 99-104. http://w2.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_19880628_pastor-bonus-index.html, accessed 1 May 2016.

⁸ Pontifical Commission for the Cultural Heritage of the Church, *Profile – Commission for the Cultural Heritage of the Church*. Vatican Web Site. <http://www.vatican.va/roman_curia/pontifical_commissions/pcchc/documents/rc_com_pcchc_pro_20051996_en.html>, accessed 2 May 2016.

individual Churches and their respective episcopal organizations; and promoting an ever greater awareness in the Church about these riches.⁹

The PCCHC released encyclicals for distribution among Catholic Church entities in order to provide international guidance on many different aspects of cultural heritage.

One such document, *The Pastoral Function of Church Archives*, was published on 2 February 1997 to “enhance the heritage of documents within a pastoral context through their material protection, their organization and management, the protection of the collections, congruent access and the promotion of cultural initiatives.”¹⁰ The letter expresses the importance of preserving the memory of the Catholic Church’s institutions and transmitting that memory into the future. It also recommends ways in which an archive could be established and administered to provide practical instruction in how to ensure transmission of this history.¹¹ This set of instructions was created by the Roman Curia for diocesan archives throughout the world. The role of archives in the relationship between local diocesan administrations and the global Catholic Church, both past and present, is expressed in the statement:

Organizing archives entails following the criteria of unity by differentiation. The distinction of the material gathered demonstrates the capillary activity of the Church community and at the same time tells about her substantial unity of intent. Preservation is a need that we today justly owe to those who have gone before us.¹²

The content of *The Pastoral Function of Church Archives* is centred on the principle that “In the mind of the Church, *archives are places of memory of the Christian community and storehouses of culture for the new evangelization* [emphasis in

⁹ Ibid.

¹⁰ PCCHC, *Pastoral Function of Church Archives*, n.p.

¹¹ Ibid.

¹² Ibid., Section 3 – “The conservation of the documents of memory.”

original].”¹³ In addressing access, the letter promotes establishing access policies from the time of initial records acquisition, whether from a private, individual donor or as part of an internal records flow process from semi-active administrative archive to historical archive. The authors promote the perspective that well-planned accession processes, consistently implemented by capable archivists, along with clear and comprehensive organization of those records, will help to establish the integrity of the records provided for access from an historical archive.

The authors also discuss the link between access and conservation policies. The PCCHC suggests that the conservation quality of everything from manuscripts to computer files is largely dependent on implementing “an appropriate norm regarding access policy, an efficient inventory program, any necessary restoration, the suitability and security of storage places.”¹⁴ One of the most valuable points to draw from *The Pastoral Function of Church Archives* is that access is intertwined with nearly all levels of the archival process, from appraisal and acquisition to preservation, description, and outreach. It cannot and should not be separated from these other aspects of the archival workflow, and needs to be constantly considered in an ongoing way as part of the daily reality of archival practice.

In its 1997 recommendations for developing practical accessibility procedures, the PCCHC highlights the usefulness of computer processes to automate searching and promote wider use of the archive through facilitated finding functions. This is presented as a vital cog in establishing a useful and efficient inventory program, yet the PCCHC goes further to argue that promoting wider use of the diocesan archives is a necessary

¹³ Ibid., n.p.

¹⁴ Ibid., n.p.

part of the archivist's or archival administrator's work. It is therefore not simply about inventory for administrative purposes and internal access, but rather that outreach activity to promote access, and provision of the tools to facilitate that access, are both imperative and intertwined.

The Pastoral Function of Church Archives contains a section titled “the universal destination of the archival patrimony,” which includes the perspective that while records should initially be used to serve members of the community that created them (such as the people of a given diocese), the archival administrator should work to bring the records beyond that community. This idea is at the root of the concept of active access. In this vein, the PCCHC uses this document to instruct diocesan bishops, to whom the letter is primarily addressed:

Those responsible must make sure that the use of Church archives be facilitated further, that is not only to those interested who have the right to access but also to a larger range of researchers, without prejudice towards their religious or ideological backgrounds, following the best of Church tradition yet while respecting the appropriate norms of protection offered by universal law as well as the regulations of the diocesan bishop.¹⁵

The authors then go on to discuss other more practical access topics. The PCCHC advocates that archival administrators provide clearly marked finding aids to indicate restricted files up front, rather than informing researchers as requests are made. Attention is also given to the importance of having archivists who possess the ability to facilitate transactions between the users of archives and the records in an intelligent, informed matter. This is presented as an aspect of reference assistance, where frameworks such as historical context and archival provenance are expressed by archivists, “offer[ing] their

¹⁵ Ibid.

scientific competence while making accessible the nature and the significance of documents to researchers.”¹⁶

Finally, the access approaches outlined in *The Pastoral Function of Church Archives* conclude by calling archivists to promote the cultural importance of archives beyond the confines of the diocesan administration, especially where awareness is limited or non-existent among people or civil bodies.¹⁷ The PCCHC emphatically encourages promoting the awareness of archives in the broader society, arguing for their importance by positing that “this heritage of memory can become, in fact, a point of reference and a meeting place.”¹⁸

No major documents were produced by the PCCHC regarding diocesan archives following the 1997 encyclical, but the work of the PCCHC gradually became more closely tied to the work of the Pontifical Council for Culture. In 2012 Pope Benedict XVI united the PCCHC with the Pontifical Council for Culture by his apostolic letter *Pulchritudinis Fidei*.¹⁹ Since that time, the pontifical curia’s direction of care for the archival materials of the Catholic Church has fallen under the jurisdiction of the Department of Cultural Goods within the Pontifical Council for Culture.²⁰ This entity considers access to archival resources as one of its foremost priorities, as shown in the statement of purpose from their web page:

The Pontifical Council for Culture through its Department for Cultural Goods [collaborates] with the appropriate episcopal organs, that exist within the bishops’ conferences to gather and safeguard the entire artistic and historical patrimony,

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Benedict XVI, *Pulchritudinis Fidei* (Castel Gandolfo: 13 July 2012), <http://www.cultura.va/content/cultura/en/magistero/papa/BenedictXVI/pulchritudinisfidei.html>, accessed 22 May 2016.

²⁰ Pontifical Council for Culture, “Cultural Goods”, *Departments*. <http://www.cultura.va/content/cultura/en/dipartimenti/beni-culturali.html>, accessed 25 May 2016.

intervening, if necessary, for the constitution of museums, libraries and ecclesiastical archives. It also engages in ensuring access to such patronage on behalf of those who are interested therein.²¹

Alongside the activity of the PCCHC prior to its amalgamation with the Pontifical Council for Culture, another major work incorporating the history of guidelines for the administration of Catholic ecclesiastical archives was published in Italy. *Archivistica Ecclesiastica: Problemi, Strumenti, Legislazione* appeared in 2001 and contains perhaps the only comprehensive collection of the texts of historical and modern Catholic Church legislation and recommendations regarding church and particularly diocesan archives.²² This section of the book, the “Parte Quarta”, spans over two hundred pages. While published in Latin and Italian, the book is available in a digital format that enables the use of digital translation tools. This means the text is still of immense functional value for those not proficient in the Latin or Italian languages. In-depth knowledge of the Catholic Church’s archival legislation and guidelines provide the basis for Catholic archives’ administrators to develop strong policies and best practices for access that reflect the heritage and current perspectives of the church’s central administration.

However, translation tools do have their limits. Where texts have an existing translation in the archival administrator’s own language, such as through the Vatican’s website or other publications, using those translations is likely preferable. However, the comprehensive collection provides immense value by providing evidence of where translated versions of Vatican documents sit in chronological sequence with each other and in relationship to further non-English documents, and because it provides references for additional hard-to-find documents. Without Italian language skills, the academic

²¹ Ibid.

²² Ghezzi, *Archivistica Ecclesiastica*, 189-391

essays that comprise the first three sections of the book remain difficult to understand fully, even using translation aids. Still, keyword searches and partial translations can direct administrators to portions of the text that might be worth translating more efficiently, as needed to assist with an archivist's work.

Of undeniable assistance to English-speaking Canadian archivists is James O'Toole's *Basic Standards for Diocesan Archives*. O'Toole's manual is comprehensive and is meant to be a general guide for diocesan archival administrators, whether they are bishops, chancellors, or archivists. The book is accessible to anyone, not just trained archivists, but this also means that the depth to which this primer delves into particular aspects of archival practice is minimal. Access, for instance, is presented within a half-page introduction as one of the basic points of consideration for diocesan archival administration.²³ The text explains the need to balance access with the protection of confidentiality, and the necessity of a clear access policy in order to facilitate professional practice.

Basic Standards for Diocesan Archives also includes a section that addresses writing an access policy, but since this is not the primary focus of the book the text is only about one page long.²⁴ However, the annex material of the book includes the Association of Catholic Diocesan Archivists' (ACDA) "Statements on Access and Use of Sacramental Records" adopted in 1982, and "Guidelines for Access to Diocesan Archives," approved for use in 1991.²⁵ The ACDA's documents are each 10 pages in length, and the 1991 general guidelines for access address five different aspects: "general

²³ O'Toole, *Basic Standards*, 7.

²⁴ *Ibid.*, 12-13.

²⁵ *Ibid.*, 51-61; 67-79.

attitudes toward access", "diocesan collections and their use", "administering access", "a typical access policy", and a sample of a general access policy.²⁶

O'Toole's text is written from an American perspective, and for a primarily American audience, but is generally applicable beyond that country's borders. It is worth noting that beyond the international standards of canon law, his policies are framed by guidelines developed in the United States by the ACDA, along with the National Conference of Catholic Bishops' *A Document on Ecclesiastical Archives*.²⁷ The following section provides an outline and some discussion of O'Toole's access policy recommendations, which provide a strong starting point for a more detailed analysis of Catholic diocesan archival policies and practices regarding access.

O'Toole stresses first the importance of "a general definition of those records that will be considered open and available for research, those that will be subject to access restrictions, and those that will be closed."²⁸ Catholic diocesan archives, like most corporate or private archival entities, hold many different types of records. There may be particular regional laws that apply to the unique records composition of each diocese, and there are certainly canon laws that apply to certain record types. However, all records can be categorized into the broad groupings of open, restricted, and closed outlined by O'Toole. Which record types the diocese holds and which of these categories each type of record falls into would not be immediately obvious to a researcher. This is true of both external and internal researchers who may not be aware of issues surrounding access.

²⁶ Ibid., 69-78.

²⁷ Ibid., 12; United States Catholic Conference. *A Document on Ecclesiastical Archives*. Washington, D.C.: United States Catholic Conference, 1974. http://www.umanitoba.ca/colleges/st_pauls/ccha/USBishopsonArchives.pdf, accessed 22 April 2010.

²⁸ O'Toole, *Basic Standards*, 12.

When it comes to developing access policies, choosing to provide information *about* access can be as important as the ways in which an archivist decides to provide access itself. This information assists researchers by letting them know from the beginning of the access process what sorts of records they are and are not able to request at a given institution. It in turn benefits archival administrators to have clear definitions for records-access levels. Clarity can decrease questions about inaccessible material, increase exposure for accessible record types that might otherwise be unknown, and streamline the initial access inquiry process by creating an equal baseline standard for all. Awareness of the importance of providing clear access restriction information is something that has been present in dialogue around diocesan archives in Canada for some time. A 2003 presentation by members of the Canadian Catholic Historical Association to bishops in Atlantic Canada includes a request that diocesan records' access restrictions be made clear to archives' users from the beginning of research contact.²⁹ Yet, awareness of the issue does not mean that this information is widely available, or that a standard is used for how things are defined or how the information is provided.

O'Toole recommends that "Dioceses should avoid using 'flat-year' rules, in which all records before a fixed date (1925, for example) are open and all records after it are closed."³⁰ He makes the point that these types of broad restrictions create unnecessary barriers for researchers when it comes to non-sensitive material, and can also open up records that were meant to or should remain confidential longer. O'Toole uses the terms "over-protecting" and "under-protecting", and advises that administrators assign access

²⁹ FitzGerald and MacKenzie, 4.

³⁰ O'Toole, *Basic Standards*, 12.

dates to each collection of records based on their unique characteristics and contents.³¹ Of course, while some record types may be easily assigned accessibility timelines, whether based on civil law standards or personal assessments by administrators it is also true that “church records are private and often confidential in nature, and that further local and canonical restrictions may also govern access.”³² This may mean that case-by-case assessments need to be made for each research request, but having overall timelines for record types would both streamline the process and provide a supportive framework for access decisions made by administrators.

O'Toole then maintains that diocesan archives create "A statement of the procedures by which researchers from outside diocesan administration may use the archives, including procedures for application, identification, and terms of use."³³ The information about who can access a diocese's archives, and how they might do so, is limited in Canada. As discussed later in this chapter, a large number of dioceses do not even list an archivist on their websites, never mind further access information. In the era of online research, websites are a primary contact point for most researchers. Without a clearly defined process, researchers will encounter varying degrees of service depending on whom they contact with their research request. Several factors can affect responses, including how well the staff contact is acquainted with the archive's contents or with the records' access parameters, as well as the interest level or time available for the staff member to investigate, particularly if not a dedicated archivist.

³¹ Ibid.

³² Robert Johnson-Lally, "Diocesan Archives: A View of the Archives of the Archdiocese of Boston." *The Catholic Social Science Review* 2 (1997): 306.

³³ O'Toole, *Basic Standards*, 12

In addition to internal diocesan staff or members of parishes belonging to the diocese, research requests may come from academic and local historians, television and movie producers, authors, sociologists, genealogists, lawyers, ethnographers, and others interested in the region or history of diocesan people and spaces.³⁴ Knowing the process by which records can be accessed, if at all, along with how they can be used can help researchers determine if their research is viable at a given archive. Clear access policies can also allow them to prepare for the process and expected timelines if they choose to pursue their research query.

O'Toole then endorses the creation of “A procedure by which researchers may apply for access to restricted collections or for a review of restrictions.”³⁵ Depending on the approval process in a diocese, it may be possible to provide access to restricted records for specific purposes. For example, academic research where data is being compiled into an aggregate survey, or where confidentiality and ethical use criteria are clearly outlined. The diocese should determine a process by which people can request access, or if access cannot be granted, the process should make provision for an explanation to be given of why their request was declined. Responses to certain requests for access might involve redacting documents or provision of verified data without access to originals. Providing this information up front helps researchers to understand that restrictions exist, and enables them to prepare their requests accordingly. An archivist's and a researcher's time can be better spent if a clear and known access policy exists. That avoids piecemeal requests for material from researchers because they are unaware of access barriers and of how to make access requests. Ideally, if information about access

³⁴ Johnson-Lally, 307.

³⁵ O'Toole, *Basic Standards*, 13.

procedures is available at the beginning of the research process, researchers could prepare their requests at the outset of their work and an archivist could then address them more efficiently.

O'Toole also advises diocesan archives to develop "A procedure governing permission to reproduce and publish material from archival records, with particular attention to the requirements of copyright and other applicable civil law."³⁶ Researchers do not always enter archives with an understanding of copyright law and "fair use" guidelines. They may want to use images or quote text from copyrighted archival material. Informing them of how they can learn about copyright laws and accepted practices is an important archival service. Researchers should also be told about any local diocesan rules regarding both content reproduction and physical reproduction of materials.

Among other matters affecting access, copying technologies available at a diocesan archive may be limited, and steps may need to be taken to limit copying to avoid physical damage to fragile records during the reproduction process. A diocese may also require researchers to obtain written consent from the archival administrator, chancellor, or bishop before publishing material from their archives. There may also be a specific citation format expected by the archives.³⁷ Providing information to researchers about legal, physical, and procedural limitations on material reproductions is beneficial to both the researchers and the archives.³⁸ It can help to ensure that researchers understand

³⁶ Ibid.

³⁷ Sigrid McCausland, "Access and Reference Services" in *Keeping Archives*, Second Edition, edited by Judith Ellis (Port Melbourne, Australia: D W Thorpe & Australian Society of Archivists, Inc., 1993), 282-283.

³⁸ O'Toole, *Basic Standards*, 13.

that access to archives does not imply unlimited use of any information they obtain there, and it provides the archivist with a means of recourse if materials are used without approval despite informing the researcher of the process.

Activities that can be described as active access practices are clearly evident in O'Toole's guidelines. Although the recommendations above indicate the importance of having a detailed access policy readily available for researchers, that is only one aspect of the active access approach. O'Toole also highlights the value of educational outreach programs for people of all ages, describing projects such as producing curriculum packages on local history topics for elementary and secondary schools, organizing essay contests for students, arranging adult education activities, and facilitating programs that provide an opportunity for seniors to reminisce about past experiences.³⁹ Such undertakings can be developed around featured archival materials and promote archival records' access and use. Educational outreach is a worthwhile component of active access because it brings knowledge from archives out of the administrative home of the records to people wherever they may be. Outreach can also mean bringing people who would not normally seek out the archives on their own to the archives to access the records.

Canadian Resources and Recommendations

Turning to the major archival policy and practice resources produced in Canada, we first consider *Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents*, disseminated in 1998 by the Canadian Conference of Catholic Bishops

³⁹ Ibid., 27.

(CCCB).⁴⁰ The initial draft of the document was submitted by members of the Episcopal Commission for Canon Law / Inter-Rite of the CCCB in 1994, and in the following four years additions and revisions produced an extensively revised final version.

The approved document is a useful reference but, like the other texts described in this chapter, is a guiding tool and not a binding dictum. The then Chair of the Episcopal Commission clearly states in the foreword that “The Commission is well aware it does not have juridic authority over diocesan chanceries.”⁴¹ This simple statement is representative of the reality that every diocesan archive is administered in very different ways while still following the rule of canon and Canadian laws. Yet documents such as this have helped to move the Catholic Church in Canada towards developing greater similarity in archival administration at a national level. Standards in archival access policies among Catholic diocesan bodies are beneficial for creating a stronger support network for archival administrators. Common standards give them more equal footing upon which they can develop practices to suit the needs and resources of their individual jurisdictions. Standards in policy also help users of archives to understand better how to navigate access and the reasons why access may be provided to some records and not to others, either within a single archive or between institutions.

Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents addresses six individual areas of administration following an introduction to the three areas of diocesan archives – active, secret, and historical. It also provides an explanation of the source of administrative authority over each of these types of records. The sections

⁴⁰ Episcopal Commission for Canon Law/Inter-Rite of the Canadian Conference of Catholic Bishops, *Guidelines for the Conservation and Confidentiality of Ecclesiastical Documents* (Ottawa: Canadian Conference of Catholic Bishops, 22 June 1998).

⁴¹ *Ibid.*, 1.

of the text fall under the headings: “documents to be kept in the archives”, “other principles to keep in mind”, “relations with civil law”, “admissibility of communications of a religious nature”, “police searches”, and “microfilms/microfiche and other information storage media”.⁴²

While only seven pages long, this document distills a wide range of archival topics. The section on types of records to be kept in the diocesan archives refers to canon law to ensure that diocesan archival administrators are aware of records that are required to be kept and which ones should not be kept or only be kept in the confidential (secret) archives. The records types that a diocesan archive is expected to keep include: acts of the diocesan curia, records concerning both spiritual and temporal diocesan affairs, records of ecclesiastical criminal cases concerning moral matters, historical documents concerning the diocese, parish archives submitted for permanent deposit, marriage dispensations and statements of nullity, records of secretly celebrated marriages, inventories of temporal goods and records establishing the rights of the Church to those temporal goods, copies of documents relating to the canonical foundations of the diocese, copies of criminal case warnings and corrections, and judicial acts and documents.⁴³ Some of these records would be classified as part of the secret archive and therefore inaccessible to researchers, while others have specific norms established for their destruction after specified amounts of time. Beyond the canon law requirements, it is up to each diocesan bishop to approve of other types of records that may be kept in each diocesan jurisdiction.⁴⁴

⁴² Ibid.

⁴³ Ibid., 2.

⁴⁴ Ibid., 3.

In “other principles”, *Conservation and Confidentiality* cites canons from both the Roman and Eastern codes of canon law that are summarized in these statements: “no one has the right to violate a person’s privacy or to harm unlawfully a person’s good reputation” and “professional secrecy must be respected.”⁴⁵ The inclusion of these canonically enshrined principles reflects the CCCB’s desire to emphasize the sensitivities involved with records of people’s lives, just as protection of personal privacy legislation does with records on individuals kept by governments.

The sections “relations with civil law”, “admissibility of communications of a religious nature”, and “police searches” cover the legal aspects of diocesan records. The document reminds bishops and archival administrators that in Canada civil authorities are not required by any formal laws or agreements to respect Catholic Church legislation regarding access to church records, and that subpoena powers can be used to seize documents in ecclesiastical archives.⁴⁶ The document explicitly states:

In Canada there is no concordat governing relations between State and Church. Dioceses will observe civil legislation in effect across Canada and in their province or territory. They should cooperate with the civil authorities in the interest of justice. Witnesses may be compelled to testify and should offer full cooperation. Dioceses should not ask for exceptional treatment.⁴⁷

There is also information provided on the Wigmore criteria, explained in the previous chapter, and an explanation of how to proceed in the event of a police search -- recommending that legal counsel be contacted regarding how best to proceed. It is further recommended that confidential documents be placed in a sealed envelope if seized as part

⁴⁵ *ibid.*, 4.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

of a search in order to undergo review by a judge to evaluate for confidential privilege under the Wigmore criteria.⁴⁸

The final section of the CCCB guidelines is about microfilm and “other information storage media”. The guidelines contain recommendations for security and care provisions for copies on microfilm and various digital media that are equivalent to those given to the original records. The need for careful tracking of loans and returns of microfilms and microfiche is pointed out, indicating that such loans from diocesan archives are possible. The rules for making, labelling, and disposing of microfilms and microfiche are extended to all “information technology media.”⁴⁹ Finally, the digital documentation strategy and access considerations are summarized in a single paragraph:

All information secured in the archives of the diocese or institute is the property of the diocese or institution and cannot be made public, destroyed or altered without proper authorization. Similar precautions should be taken when there exists a computer network on which confidential documents are entered. Confidentiality is the responsibility of all those who have access to the documents.⁵⁰

While the predominance of computer-created records in most office environments today means the section on digital technology could do with significant expansion, the call for security of networks and care for the records is as necessary now as in 1998, and perhaps even more so.

Conservation and Confidentiality is so important because of its cross-Canada distribution and the combination of information on archival administration, records preservation, and confidentiality/access issues that fall under both canon law and Canadian law. It is concise enough to be easily applied, but detailed enough that it

⁴⁸ Ibid., 5-6.

⁴⁹ Ibid., 6.

⁵⁰ Ibid., 7.

contains references to canon law and guidelines for highly sensitive and contentious access issues for which archival administrators would be likely to seek assistance.

The other Canadian document of note regarding Catholic diocesan archival policies and practices is *Les archives ecclésiales, diocésaines et paroissiales: Patrimoine archivistique de l'Église catholique – Origine, Conservation, Perspective*. It is both more detailed and more recent than the 1998 CCCB document. It contains different information compiled for a different purpose. This manual, created by the Assembly of Chancellors of Quebec (hereafter ACCQ), goes beyond the diocese to explore parish archives as well, but the Canadian context and theological reflections make it extremely useful when considering a Canadian Catholic diocesan approach to archives.

Les archives ecclésiales begins by examining archives in the life of the Catholic Church, using the Bible as a prime example of the value placed on archives.⁵¹ The Bible itself contains ancient records published and re-published, translated and re-translated. Ancient letters and stories written over thousands of years are the source of its authority. From there, the ACCQ extols the value of archives as a tool in the pastoral mission of the church as well as a precious heritage to protect and transmit.⁵² The text's practical sections on diocesan archives examine papal decrees and expressly address the Quebec experience, but still provide useful perspectives for any jurisdiction on basic principles, laws, conservation, research and access, and potential partnerships with other institutions and why these might be undertaken.⁵³ The overall perspective on archives as a source of life, wisdom, serenity, and hope have value for all archival administrators, outside the

⁵¹ Assemblée des chanceliers et chancelières, *Les archives ecclésiales*, 5-6.

⁵² *Ibid.*, 7-9.

⁵³ *Ibid.*, 13-22.

Catholic community as well as within it. The conclusion of the first half of the book contains this welcome appeal: “Gardons un esprit d’ouverture, de réflexion et de dialogue pour ensemble mieux assumer notre tâche de conservation, de transmission et d’utilisation de notre patrimoine culturel et religieux.”⁵⁴

That this call to openness includes a reference to both transmission and use speaks to the potential of this document to provide religious perspectives on the principles of active access among Catholic diocesan archives. And while the section of the ACCQ text on protocols for research and access is brief, it calls for clear statements on the ways in which archives may be made available and recommends that finding aids be made public,⁵⁵ which both promote active access practices, even in cases wherein records themselves may still be difficult to access and consult.

Professional Organizations and Inter-Personal Resources

Beyond these perhaps more authoritative or influential publications on Catholic diocesan archives discussed above, resources also exist to improve more general understanding of the Canadian experience of diocesan archival practice. They can help develop policies that reflect Canadian realities and support a movement to nation-wide active access strategies. One can look back to articles highlighting specific diocesan archival institutions published in early 1970s issues of *Study Sessions*, the journal of the Canadian Catholic Historical Association.⁵⁶ The Association of Canadian Archivists'

⁵⁴ Ibid., 28. Translated as: Keep a spirit of openness, reflection, and dialogue to best assume our task of conservation, transmission, and use of our cultural and religious heritage.

⁵⁵ Ibid., 21.

⁵⁶ See Gordon A. Bean, “The Archives of the Archdiocese of Toronto,” Volume 37 (1970); J. H. Gillis, “The St. Francis Xavier University Archives,” Volume 30 (1971); Prudent MacDonald, “The Archives of the Christian Brothers in Toronto,” Volume 39 (1972).

journal *Archivaria* includes writing on religious records as far back as its first (1975) and third (1976) issues, which deal with church records held in public archives' collections.⁵⁷

At a high level, national organizations such as the Association of Canadian Archivists (ACA) and the Canadian Catholic Historical Association (CCHA) create spaces for Catholic diocesan archivists to interact with archivists working at religious institutions as well as historians of Catholicism in Canada. The CCHA, formed in 1933, publishes scholarly material that relates to Canadian Catholic history. It also strives

To encourage research and public interest in the history of the Canadian Catholic Church, its dioceses, religious communities, institutions, parishes, schools, and personalities [and] to promote the presentation and understanding of historical sites and buildings, documents, and significant heirlooms of the past.⁵⁸

These CCHA activities apply directly to Catholic diocesan archives in Canada as the locations and supports of many aspects of research, and where many of the “documents and significant heirlooms” mentioned in the CCHA statements are preserved.

The ACA supports several Special Interest Sections, one of which is the Religious Archives Special Interest Section (RASIS), which was formed in 1985 and officially established in 1986.⁵⁹ The group advocates for its members within the larger ACA body, provides a space for dialogue on shared issues between different religious bodies' archivists, and supports common goals and education.⁶⁰ Communication occurs directly through the annual meetings held in conjunction with the ACA annual conference, as

⁵⁷ Both *Archivaria* articles are by James Lambert, “Public Archives and Religious Records,” 1 (Winter 1975/6) and “But what is Caesar’s and What is God’s? Toward a Religious Archives Programme for the Public Archives of Canada,” 3 (Winter 1976/7).

⁵⁸ Canadian Catholic Historical Association, *About*, <<http://cchahistory.ca/about/>> accessed 21 May 2016.

⁵⁹ Association of Canadian Archivists, “Special Interest Sections - Religious Archives”, *Professional Development*, <<http://archivists.ca/content/religious-archives-special-interest-section>> accessed 21 May 2016.

⁶⁰ Ibid.

well as through posts on the RASIS section of the ACA website or notifications sent via the ACA's email group ARCAN-L.⁶¹ Similar special interest groups of religious archivists often exist within the provincial archives/archivists associations, some formally and some informally.⁶² These networks support religious institutions' archivists by creating opportunities for interaction and knowledge sharing, while connecting religious archivists to their larger provincial and national archival communities.

There are also several professional organizations within Canada, and at least one in the United States, in which Catholic diocesan archivists are supported specifically as archivists working in a unique Catholic context. Perhaps the most significant one, addressing both the Canadian and Catholic realities of diocesan archival practice, is the Catholic Archivists Group (CAG). The Catholic Religious Conference of Ontario Archivists Group began to hold annual conferences in 1982 to address topics relevant to archivists of Catholic Church archives in the province, as well as Catholic historians.⁶³ From that organization came CAG, established in 2004, which unites the wider Canadian community of archivists working in a variety of Catholic institutions, continues to host conferences, and publishes a regular newsletter.⁶⁴ Regular use is made of an email group to facilitate knowledge sharing in a more interactive way.

A similar organization exists in Quebec primarily for Francophone archivists of religious organizations, and largely comprised of those serving Catholic institutions and

⁶¹ Ibid.

⁶² Canadian Council of Archives, "Provincial/Territorial Councils/Associations", *About CCA*, <<http://www.cdncouncilarchives.ca/provcouncils.html>> (accessed 21 May 2016) includes a full list of provincial archivists' associations.

⁶³ Linda Wicks and M. C. Havey, eds., *Perspectives on Religious Archives: Selected Papers Presented to the CRC-O Archivists Conferences 1982-2002* (Canada: Canadian Religious Conference Archivists Group, 2003), passim.

⁶⁴ Catholic Archivist Group, <http://www.catholicarchivist.ca/>, accessed 11 March 2016.

organizations. The Regroupement des archivistes religieux (RAR) was founded in 1978 and formally incorporated as a non-profit organization in 1991.⁶⁵ The group holds annual general assemblies for its members, and provides educational workshops as well as an ongoing blog-style news feed on its website.⁶⁶ The RAR also engages with the educational and collaborative resources and events supported by the Conseil du patrimoine religieux du Québec, an additional professional network that hosts a regular “Religious Archives Day” (“Journée des archives religieuses”) event.⁶⁷

There is also a professional network specifically for Catholic diocesan archivists, known as the Association for Catholic Diocesan Archivists (ACDA). It was founded in 1979 and, though an American organization, includes in its mandate service for Canadian Catholic diocesan archivists as well.⁶⁸ The ACDA produced a minimum standard for access to diocesan archives that was first published in its newsletter in December 1990.⁶⁹ This document is published in James O’Toole’s *Basic Standards for Diocesan Archives* as “Appendix 6 – ACDA Guidelines for Access to Diocesan Archives”.⁷⁰ In 2012 the ACDA published an update to O’Toole’s influential *Basic Standards for Diocesan Archives* under the title *Managing Diocesan Archives and Records: A Guide for Bishops*,

⁶⁵ Regroupement des Archivistes Religieux, *À propos*, <<https://regroupementarchivistesreligieux.wordpress.com>> accessed 20 May 2016.

⁶⁶ Ibid., sections *Accueil*, *Assemblée générale annuelle*, and *Formations*.

⁶⁷ Alexis Billaudele, “Journée des archives religieuses 2016” (2 March 2016), <<https://regroupementarchivistesreligieux.wordpress.com/2016/03/02/journee-des-archives-religieuses-2016/>> accessed 20 May 2016. See also Conseil du Patrimoine Religieux, “Religious Archives Day”, *Events*, <<http://www.patrimoine-religieux.qc.ca/en/events/archives-day>> accessed 20 May 2016.

⁶⁸ Association of Catholic Diocesan Archivists, *Welcome to the Association of Catholic Diocesan Archivists*, <<http://diocesanarchivists.org/>> accessed 20 May 2016.

⁶⁹ Association of Catholic Diocesan Archivists, *About ACDA*, <http://diocesanarchivists.org/?page_id=29> accessed 20 May 2016.

⁷⁰ O’Toole, *Basic Standards*, 67.

Chancellors, and Archivists.⁷¹ The ACDA also publishes a regular newsletter, hosts biennial conferences and annual meetings, and in addition to its email group has a Facebook page through which members and interested individuals can network.⁷²

In addition to providing resources through publications and formal presentations, knowledge sharing occurs on a person-to-person level in a professional organization. While external contexts, laws, and resources all inform and shape policies and practice, their implementation lies with the individual archival administrators and their diocesan bishops and chancellors who make decisions about policy and practice for their local archive. Since people are making these decisions, decisions about access vary with each person's experiences, skill sets, and knowledge, as well as with what was put in place over time to facilitate or hinder progress in new directions.

Professional organizations become places where experiences and knowledge can be shared between members, and new skills can be developed, further promoting the potential for standardized access approaches. By creating a pool of knowledge that can be explored further by interpersonal connections, either in-person or by phone and email, instead of just a static document whose authors may or may not be contacted or even hold the same perspectives in the years following publication, organizations can provide the source for living springs of knowledge that can inform access policy and practice. These organizations can also become places to encourage unification of ideas or promotion of new movements regarding archival thinking and practices. This is especially important

⁷¹ Emilie G. Leumas, Audrey P. Newcomer, and John J. Treanor, *Managing Diocesan Archives and Records: A Guide for Bishops, Chancellors, and Archivists* (Association of Catholic Diocesan Archivists, U.S.A.: 2012).

⁷² Association for Catholic Diocesan Archivists <<http://diocesanarchivists.org/>> accessed 21 May 2016, and Association for Catholic Diocesan Archivists <<https://www.Facebook.com/diocesanarchivists/>>, accessed 21 May 2016.

for Canadian diocesan archivists as very often they may be working alone within a diocesan administrative structure without other archivists to provide professional support and to share perspectives or develop new approaches.

The impact of research interactions on the evolution of access policy and practice should also be considered. Again, this can be largely affected by archival administrators' personal experiences, skill sets, knowledge – and having a professional support system within which to share experiences and recommendations can assist here too. Some diocesan archives may be open to the general public for research, while others may offer limited service to researchers who are not members of the diocese. This could be for a multitude of reasons. It may simply be a matter of low resources allocated to the archives and no staff or time to provide the service, but that creates the potential for negative experiences with researchers or unclear knowledge of laws and policy recommendations regarding access.

Further, researchers' intentions for their findings may have an impact on how diocesan archival administrators respond to an access request. Priority may be given to certain records' uses over others. Aside from members of diocesan parishes and staff of a diocesan administrative body, researchers can include just about anyone: academic and local historians, television and movie producers, authors, sociologists, genealogists, lawyers, ethnographers, and various other people interested in historical records. For archives users, knowing how and if one can access diocesan records, or if certain types of research are viable at a given archives, can determine whether or not it is worth a researcher's time to go through the process. This information should be clear, consistent, and publicly available. Without a formal access policy that is actually followed, unspoken

policies and practices can develop over time that may result in different responses depending on which staff member a researcher encounters.

With the range of purposes for which people might hope to use diocesan archives, passive approaches to access provision might mean more work for the archives over the long term. Time and energy is wasted when individual researchers have to navigate the administrative structure to uncover who is responsible for the archives, meaning new people asking the same questions of the same staff repeatedly. Starting with publicising information about access and developing basic policies, the archives can better serve themselves and their communities. Taking an active approach by creating consistent policies means archivists do not have to re-analyse every access decision from scratch for each research request, though this may still be required on occasion for more sensitive records.

Active access comes into play with perception as well. There is a lot of negative public opinion about the Catholic Church's internal functions, some fictional from books, films, and television shows, and some truthful that has come to light in legal inquiries such as those related to sexual abuse and residential schools. Increased past, present, and future accountability for the societal impact of church actions and reconciliation with Indigenous people can result from the revelation of past wrongs. However, if diocesan and other church archives are seen as hiding information from the public due to barring access or failing to provide information on the existence of records, then there is no other information revealed to balance the flood of negative portrayals. Even explanations that outline limited staff or non-existent finding aids as part of the reasons why access is

limited can help to ameliorate perceptions that all dioceses are “hiding something”.

O’Toole expresses the view that,

Rather than being a collection of secrets that must be hidden from view, the diocesan archives is a useful collection of examples that show the inspiring work of the church and its people through time.⁷³

However, the negative perceptions will never shift without making available records of both the good and the bad, and without providing clear and reasonable explanations of why certain records are confidential or closed to researchers – beyond merely stating that the dioceses simply do not have to make them available in most cases. Archival administrators’ reasons for confidentiality, if not made clear and applied consistently through the active creation of policies and applied practices, will be hard to defend to researchers. If so, they will likely leave negative views intact.

Mark J. Duffy and Christine M. Taylor have argued that “Privacy and access are difficult concepts for archivists of religious institutions who confront uncertainty in the prudential exercise of institutional controls for privacy, secrets, and information access.”⁷⁴ Without standardized policy guidelines, archival access issues can become about trust. In those circumstances, for both researchers external to the diocesan organization and for diocesan archivists, fear of past experiences can sometimes cause people on both sides to put up walls.

From the archivists’ side of things, apprehensions often surround uses of records that counter the intentions of those that created them or about whom they were created. In

⁷³ O’Toole, *Basic Standards*, 27.

⁷⁴ Mark J. Duffy and Christine M. Taylor, “Trust and Professional Agency in the Archives of Religious Organizations: An Archival Perspective on Confidence Keeping,” *Privacy and Confidentiality Perspectives: Archivists & Archival Records*, edited by Menzi L. Behrnd-Klodt and Peter J. Wosh (Chicago: The Society of American Archivists, 2005), 207.

Nazi Germany those looking for evidence of the Jewish heritage of individuals in order to isolate Jewish people used baptismal certificates from church archives in their research; today there could be fear of the use of confidential records held by religious archives to contact people who did not wish to have the documented information made known.⁷⁵ A researcher may agree not to publish the names, yet the initial release of information in the course of research might go against the expectation of the subject of the records, who expected the information to have been collected in confidence. Another concern is that members of the Church of Jesus Christ of Latter Day Saints (Mormons) might use Catholic baptismal records to posthumously baptize family members of currently living Mormons into the Mormon faith.⁷⁶ This practice is in fundamental opposition to the Catholic belief in one baptism, and would go against the very purpose of the Catholic Church creating and keeping sacramental records.

From the archival users' perspective, there may be distrust of a diocesan archive due to the belief that there is always something secret being hidden to which the researcher is denied access. Unfortunately, this concern is supported by a report of confidential documents that were kept for canonical purposes by religious archives, and never meant to become publicly available, but were removed from legitimate civil jurisdiction by sending them to the Office of the Canadian Apostolic Nuncio.⁷⁷ Although this practice is not condoned by the Roman Curia, that it occurred can cause mistrust among researchers and contribute to wider political tensions. Delays by many

⁷⁵ Sweeney, "Act of Faith," 43.

⁷⁶ Chaz Muth, "Vatican letter directs bishops to keep parish records from Mormons," *Catholic News Service*, 2 May 2008, www.catholicnews.com/data/stories/cns/0802443.htm, accessed 22 April 2010.

⁷⁷ Thomas M. Cassidy, "Canonical Aspects of Confidentiality and Privacy," in *Perspectives on Religious Archives*, edited by Linda Wicks and M. C. Havey.

administrative bodies in providing records to the Canadian Truth and Reconciliation Commission, and the vast media coverage highlighting the delays of Catholic and other signatories to the Indian Residential Schools Settlement Agreement, have also increased distrust of Catholic diocesan archives.

Internal trust issues, such as between diocesan administrators and a newly appointed archivist, can also develop: “For the archivists in religious organizations, trust exists in a series of sometimes risk-intensive encounters of personal, professional and organizational commitment.”⁷⁸ Ideally, an archivist works to alleviate internal sensitivities about access to records, and expresses a commitment to proper archival ethics at the same time. As Duffy and Taylor say, “In exercising ethical discretion and procedural fairness, the archivist will ensure the perception of equitable information flow while guarding the confidences that emerge from the particular human relationships.”⁷⁹

By developing their knowledge of the complex contextual, legal, and practical realities of diocesan archives, an archivist can improve internal organizational trust of diocesan archival administration. Developing internal trust may lead to an archivist having more involvement in records management workflow and records deposit decisions, ensuring better organization and availability of diocesan records for access in the future. When an archivist is able to take an active approach to ensuring that records are being preserved for possible future access, and is able to heighten awareness of the importance of records preservation, accountability, and archival use within the diocesan structure, active archival access practices become part of the internal administrative

⁷⁸ Duffy and Taylor, 222.

⁷⁹ Ibid.

environment. If able to break through institutional “cult[s] of secrecy,” an archivist can become trusted by both the organizational administration and by users of the archives.⁸⁰

Many factors should be taken into account when developing policy and practice for access to Catholic diocesan archives. In addition to historical, local, internal and external legal factors, we can see that recommendations from the pontifical curia, respected international experts, as well as national and provincial advisory commissions from within the Catholic Church in Canada have all produced valuable guidelines and reference material in the last thirty years that provide direction for access. Networks of fellow archivists from related professional environments have shared their knowledge through publications, conferences, online forums, email lists, and personal communications. Personal education, experience, and interactions with researchers and other diocesan staff can also shape diocesan archival access strategies. The various documents and experiences alike support a shift away from passive access practices and toward Canada-wide adoption of active access policies and practices for Catholic diocesan archives.

⁸⁰ Ibid., 224.

Chapter Four: Practical Realities and the Application of an Active Access Framework

Robert Presutti, reflecting on religious archives, argues that “Archivists have a primary responsibility to serve and respect the context in which they perform their duties.”¹ He layers this responsibility with the need of archivists to “fully engage with our locality.”² Though writing specifically about archivists within the American Theological Library Association, Presutti’s assertion can apply much more broadly. Both locality and context for Catholic diocesan archives in Canada are multi-layered and complex, as outlined in the previous chapters. The many influences shaping these archives outlined in the preceding pages need to be considered in order to truly engage with, serve, and respect the diverse communities within which Catholic diocesan archivists do their work.

In determining the best directions for policy and practice, the geographic, historical, economic, ideological, political, legal, professional and social spaces that provide “localities” for the archives of Canada’s Catholic diocesan bodies need to be taken into account. Different combinations of these influences shape each diocese, causing further difficulties in creating a standardized access environment for the archives of Catholic dioceses across Canada. Yet the possibility of standardizing the policies and approaches that inform access practices does exist, providing that diocesan archival administrators fully inform themselves of the influences of their Canadian context, the frameworks of applicable laws, and the overarching recommendations that have been made regarding management of diocesan archives.

¹ Robert Presutti, “Toward a Greater Discourse: Issues in Religious Archives”, *Theological Librarianship* 3 no. 1 (June 2010), p.17.

² Ibid.

Moving closer to standard policies and practices also requires participation in both professional communities of archivists that support dialogue between Catholic diocesan archivists, as well as those of religious archives' administrators more generally, so that ongoing conversations can take place. Support from other archivists doing the same type of work and facing the same challenges means that diocesan archivists can build on the experiences of others to facilitate their own institution's policy development and to create more consistent access practices for both internal and external users of diocesan archives.

There are 70 Catholic dioceses and eparchies in Canada, and of these ecclesiastical corporations, nine are Eastern-rite Catholic communities (eparchies), and the remaining 61 are Latin-rite (dioceses).³ There are also two recently established Canadian Eastern-rite apostolic exarchates, equivalent to the Latin-rite apostolic vicariates, one for Syro-Malabarian Catholics, and one for Syriac Catholics.⁴ This brings the total number of Catholic "diocesan" bodies to 72. There are three additional Catholic eparchies that cover both the United States and Canada, but since their administrative offices are based in the United States they have not been included in the totals above.⁵

³ The Eastern-rite communities are grouped as Ukrainian Catholic (one Archeparchy and 4 additional eparchies), Slovak Catholic (Byzantine rite), Greek-Melkite Catholic, Maronite Catholic, and Chaldean Catholic.

⁴ Canadian Conference of Catholic Bishops, "New Apostolic Exarchate for Syriac Catholics in Canada", Ottawa: 7 January 2016 <http://www.cccb.ca/site/eng/media-room/4375-new-apostolic-exarchate-for-syriac-catholics-in-canada>, accessed 11 June 2016. Canadian Conference of Catholic Bishops, "New Apostolic Exarchate for Syro-Malabarian Catholics in Canada", Ottawa: 6 August 2015 <http://www.cccb.ca/site/eng/media-room/4240-new-apostolic-exarchate-for-the-syro-malabarian-catholics-in-canada>, accessed 11 June 2016.

⁵ American eparchies that also serve Canadian Catholics are an Armenian Catholic Eparchy based in Glendale, California; an eparchy for Romanian Catholics based in Canton, Ohio; and the Syro-Malankara Eparchy of St. Mary, Queen of Peace in Elmont, New York. Information from: Canadian Conference of Catholic Bishops, "List of Eparchies," *Dioceses*, <http://www.cccb.ca/site/eng/dioceses/list-of-eparchies>, accessed 1 June 2016.

Assessing the Provision of Information about Access

Among these 72 Catholic administrative bodies, there is large disparity in how information about access to their archives is presented. My primary research for this has been to compare the most public point of access available to diocesan archives: the diocesan website. All but four dioceses in Canada have a website, and of those remaining, two are present on the web either through Facebook pages or web pages for their cathedral or major parishes. The information provided ranges from no mention of diocesan archives to separate dedicated websites for a diocese's archives.

Diocesan websites are a prime case study for active access practices, as they provide an available outlet through which diocesan archival administrators can present themselves to the world. I have additionally searched through each existing provincial instance of Access-to-Memory (AtoM) software and le Réseau de diffusion des archives du Québec, used to create archival research networks for participating groups of institutions by province or region.

Table One: Regional Multi-Institution Databases

Database Name	Supporting/Member Organization(s)
MemoryBC	Archives Association of British Columbia
Alberta on Record	Archives Society of Alberta, Yukon Council of Archives
Saskatchewan Archival Information Network	Saskatchewan Council for Archives and Archivists
Manitoba Archival Information Network	Association for Manitoba Archives
Archeion	Archives Association of Ontario
Le Réseau de diffusion des archives du Québec	Réseau des services d'archives du Québec, Bibliothèque et Archives nationales du Québec
ANLA Archival Resource Catalogue	Association of Newfoundland and Labrador Archives
Archives P.E.I.	Archives Council of Prince Edward Island
ArchivesCANB	Council of Archives New Brunswick
MemoryNS	Council of Nova Scotia Archives
Canadian Archival Information Network	Canadian Council of Archives

Within these, I note the instances in which diocesan bodies are listed in these databases as repositories. I do not consider it to be diocesan use when copies of diocesan records held by other institutions, such as provincial archives, are listed. It is worth noting that none of the diocesan archives that use external multi-repository databases to provide descriptive information give any links on their diocesan websites or even clear indications of this use, with perhaps the sole exception being the Archdiocèse de Sherbrooke. I have assessed the information (and lack of information) presented on each of the available diocesan websites, along with use of external archival databases, and provide some of the aggregated data below.

Although it is possible that information listed online may have been missed and is not reflected in these results, this is unlikely. My website examination of all data relating to archives was done more than once over the course of two years – initially in 2014 and again in 2016. I also did an initial assessment of all sites in 2010. The full websites were examined manually by clicking through pages and opening posted PDFs of directories or guideline documents, through using the sites' built in search functions, and using Google's general search. When no formal diocesan website could be found, searches were done for pages featuring the diocese or the diocesan cathedral using Google's search and Facebook's internal search functions to document any major diocesan web presence. Each site or page was assessed for any mention of archivists, archives, archival material, or of keeping documents or records in relation to the chancellor or chancery.

I completed this research with knowledge of the functional reality of diocesan archives. From the initial 2010 assessment, I came to the search knowing not to expect consistency in how archival material was presented online, and so conducted very broad

explorations for information on archives and archival material within each diocese's web presence. I am also aware that archival functions fall under the jurisdiction of each diocese's chancellor and chancery office, and investigated these areas for online mention of the preservation of records. A researcher without specific knowledge of the administrative structure of a Catholic diocese may not know to search these web pages for archival information, and may not even look for it in their own searches. I believe that if archival access information was not found in my investigation of online diocesan information, it would also not be clear to most researchers looking to find the same information.

The aggregated data presented here summarizes the information placed online by Canadian dioceses about access to their archives. The listings are grouped by the pastoral regions used by the Canadian Conference of Catholic Bishops.⁶ The categories I have selected for assessment in the table below are: Contact Information ("Contact"), General Information ("General Info."), Web Page, Access Process ("Process"), Content Information ("Contents"), Online Records ("Online Recs."), Hours, History, and External Database Use ("Ext. Data"). The criteria for each term are considered fulfilled when the information provided on the diocesan website falls within the parameters I have defined for each category below.

Contact Information: This is considered applicable for diocesan web pages that provide contact information clearly tied to the archival services, whether for an archivist, chancellor, general assistant, or other service administrator. If there is only contact

⁶ Canadian Conference of Catholic Bishops, "List of Dioceses and Eparchies by Pastoral Regions," *Dioceses*, <http://www.cccb.ca/site/eng/dioceses/list-of-dioceses-and-eparchies-by-pastoral-regions>, accessed 1 June 2016.

information for a chancellor with no clear indication that he is the person to contact with archival enquiries, this criteria is not considered fulfilled. If information is listed about the archives, but the only contact information is the general diocesan address with no individual person listed to contact, then this would also be considered as *archival contact information* not having been provided.

General Information: This covers descriptions of the general purpose or functions of the diocesan archives. This can be a single paragraph or much more, both directly on web pages or in documents uploaded to the diocesan website. The information provided may only cover a small part of the archive's overall functions, but it must provide more than merely contact information and office hours.

Web Page: This is used to record the presence of an independent page or pages within the diocesan website dedicated to the archives. It also includes the cases wherein entirely separate multi-page websites exist for the archives of the diocese, but does not include entries in non-diocesan databases. In these cases the archival information does not share space with a list of other chancery or pastoral office functions. I did not include in my assessment pages that were labelled as archives that were solely "online archives" compiling past news releases, blog posts, or contemporary content that were not specific to the diocesan archives.

Access Process: This category covers the provision of information specifically regarding the "how" of access. This ranges from simple statements directing the researcher to call or email the archivist in order to make an appointment, through to information on procedures on how to submit requests for material and what to expect at the diocesan archives while accessing material. A clear statement regarding actual access

to materials or how to make enquiries about access was required in some form for “access process” criteria to be met.

Content Information: This category ranges from brief descriptions about types of materials the archives preserves through to online finding aids or collections lists. This is important for access because it gives researchers a sense of the materials to which they may be granted access. Conversely, content information may provide descriptions of the types of material that may be closed and why, such as material that is too recent to release under some provinces’ privacy legislation.

Online Records: These include archives that have made digital or digitized archival material available online through the diocesan website or through partner institutions that are either linked to or mentioned on the diocesan site. Diocesan archives that produce blogs regularly featuring archival materials would also meet this criteria, as long as the existence of the blog was noted on the main diocesan site. Dioceses with past photographs on their websites without contextual information were not included in this group – only those whose records were explained or labelled as from the diocesan archives were included.

Hours: This covers the direct mention of staff hours in relation to the diocesan archives. While it is possible that any mention of office hours for the diocese may cover the archives, there are archives that only have part-time dedicated staff, or full-time diocesan staff that only carry out archival functions during part of their work week. This is not always obvious to a researcher, and can help to temper expectations for the turnaround time for information requests. The few diocesan websites that provide this information about the archival staff has been noted.

History: While not all dioceses provide information about their archives, many provide a detailed history of their diocesan development, suggesting a particular value attributed to preserving and sharing their history. These were largely presented as a timeline or in narrative form on an independent web page within the diocesan site. While this information does not directly affect access, it can stimulate interest in diocesan history that can lead to access requests and remind diocesan administrators of the importance of sharing their historical material. Diocesan descriptions that include minimal history beyond the foundation of the diocese were not included.

External Data: This covers the use of multi-institution databases described previously. These regional databases are an extremely useful access tool and can engage users that otherwise might not be aware of valuable archival collections kept in various diocesan archives. This category does not include information about diocesan records when original or copied materials are kept in an external institution's repository if the creating diocese is not the source of the information provided.

In addition to the above categories, the numbers shown in the table next to the region name indicate the total number of diocesan bodies in each region, adding up to the total of 72 dioceses across Canada. The grand total is the total for each category in relation to the 72 dioceses.

Table Two: Regionally Aggregated Data about Archives from Diocesan Websites

Pastoral Region	Contact	General Info.	Web Page	Process	Contents	Online Recs.	Hours	History	Ext. Data
West Region (22)	15	12	11	10	2	5	3	15	4
Ontario Region (18)	6	4	5	3	4	4	2	12	0
Québec Region (22)	17	8	7	6	2	1	3	20	4
Atlantic Region (10)	4	5	7	2	4	1	2	8	3
GRAND TOTALS	42	29	30	21	12	11	10	55	11

The most striking number from the totals above is that while 76 percent of dioceses (55 of 72) include significant historical information as a part of their diocesan web presence, only 58 percent (42 of 72) include any clear contact information regarding whom to speak to about archival material, and only 40 percent provide any further detail about the function of or access to the diocesan archives. Notably, 68 percent of dioceses in the Western region and 77 percent of those in Québec provide contact information for staff or administrators of their archives, while only 40 percent of dioceses in the Atlantic region and 33 percent of those in the Ontario region provide clear contact details. Regarding whether archives have their own web pages within the diocesan website, 50 percent of the archives in the Western region and 60-70 percent of those in the Atlantic region have a dedicated space within their diocesan web presence.⁷ The numbers for dedicated archives pages are 28 percent in the Ontario region and 32 percent in the Québec region, which is not far from the number of dioceses providing general archives information in each of the two “central Canada” regions.

Only 15 percent of diocesan archives feature samples of their records online with any clear context, the same percentage that use external regional databases to provide information about some of their archival records. However, only 4 diocesan archives both provide records online and also use external databases.⁸ Similarly, only 4 of those archives that use external databases also provide information about their records contents

⁷ The dedicated archives page of Le Diocèse de Bathurst is listed as “yet to come” and is otherwise blank, and as such it is not clear that it will be used for the diocesan archives rather than a web archive, thus the ambiguity about whether it is 60 percent or 70 percent of the ten diocesan archives in the Atlantic region.

⁸ The archives that both use provincial databases and provide samples of archival materials online are the Archdiocese of St. John's, L'Archdiocèse de Sherbrooke, the Archeparchy of Winnipeg, and the Diocese of Prince Albert.

on their own diocesan websites.⁹ Provision of information about contents of the archives on the diocesan website, as well as clear indications of archives' staff hours were both low across the board, with the percentages in the Atlantic region as the highest in both these categories.

Applying an Active Access Framework

The decisions made by a diocese regarding the ways in which its archives are presented online, and how this self-presentation by each diocesan archive compares to others across Canada, serve to situate each archives on a spectrum of possibilities for active access. In the previous chapter, active access was defined and placed on a spectrum that progressed from completely barring use of archives and no provision of information, through to practice of "passive permission" by allowing use when sought but with little provision of information, and on to active access policies and practices of providing clear information about archives and how to access them. This application of active access principles was then explored further, mainly regarding ways in which this approach could influence the thinking behind promoting archives and their use.

However, between passive permission and active access lies a sub-spectrum of categories: baseline requirements, fundamental transition, and exemplary praxis. Through definitions of these concepts and applying them to the practical realities of diocesan archives, such as the ways in which these archives present access information online, we can begin to see what sorts of practical applications can be driven by the framework of active access.

⁹ Those that provide information about their archives' contents both on the diocesan web site and in external databases are L'Archdiocèse de Sherbrooke, Le Diocèse de Trois-Rivières, the Archdiocese of St. John's, and the Archdiocese of Halifax-Yarmouth.

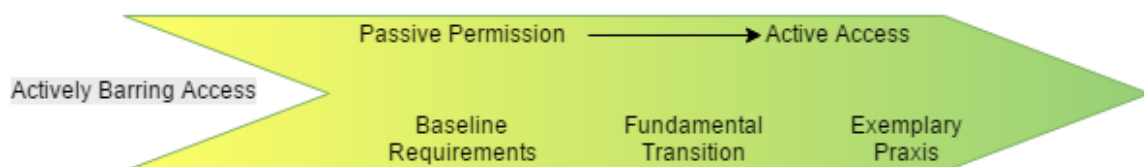


Figure 2: Spectrum of Access Provision

Passive permission is usually represented among those dioceses that meet baseline requirements and nothing further. The *baseline requirement* as I have defined it here is that each diocese should at least mention its archives, archivist, or records in relation to an archivist or chancellor's contact information somewhere on its web site, so that evidence that the archives exists is available for passive permission to even take place. For example, this would mean internal delegation of all archives inquiries to the chancellor or separate archival administrator, if one exists for the diocese. If contact information for the person in charge of archival requests is not listed on the website of the diocese, but if evidence of the archives is provided, I have included those as a secondary tier of baseline requirements.

As indicated in the data analysis above, only 42 out of 72 (58 percent) of dioceses are currently providing clear contact information online for their archives. That means 30 out of the 72 are not even reaching the baseline requirement of providing clear contact information for their archival administrator. Six additional dioceses do not provide direct contact information for archival staff, but do provide some information about the existence of their archives.¹⁰ So if both tiers are considered, that leaves 24 dioceses which

¹⁰ The Diocese of Kamloops, the Diocese of Alexandria-Cornwall, Le Diocèse de Gaspé, the Diocese of Antigonish, the Diocese of Charlottetown, and the Archdiocese of Moncton all list information about their archives, but do not list a specific individual to contact with archival queries, nor general archives department contact information.

do not list any contact or general information about their diocesan archives – a full third of all dioceses in Canada.

The category of *fundamental transition* for diocesan archives is the point at which practice begins to move toward active access. This is when practice shifts beyond baseline requirements that allow for passive permission to occur, and archives begin to provide information that actively and directly promotes access. Applying the category to how dioceses provide information about archival access online, the transition would occur when a diocesan archive provides a clear statement about what the archives is and how to access it, even if the “how” is solely to advise researchers to contact the relevant archival administrator with all access requests. This information could either be in its own small section in a list of offices or ministries, or a dedicated page for archival information. This space is where archivists can clarify the private nature of diocesan archives, but can also comment on the historical value or potential uses of the records they contain.

Some archives already have their own dedicated space within the diocesan site, but do not provide information about the archives, or they provide general information but no contact details. Those diocesan sites that provide both direct contact information and further information about the archives are the ones seen to have passed the fundamental transition point. Applying this definition to the web presence of diocesan archives produces a list of 25 repositories that either meet the requirements of this transition point or surpass it entirely. This number comes from the 48 diocesan archives that had already met baseline requirements of providing some sort of archival contact or

information, meaning that 23 dioceses meet baseline requirements but have not made the transition to applying active access in how they present information.

It is ideal for existing or potential archival information spaces on diocesan web sites to contain terms and explanations that encourage researchers to engage the archivist with further questions, rather than build walls of legalistic privacy without indication that external use is possible. Unfortunately, this type of privacy-first, service-second approach is apparent on the pages of some diocesan archives, and is not in line with the application of active access practices or even policy recommendations from the many sources discussed in the previous chapter. Such barriers to service, while technically within the rights of a diocese to create, likely only foster the view of some researchers that “the church is trying to hide something.” When service is impossible due to lack of staff or confidential contents of documents, transparency regarding the reasons for inaccessibility could be explained up front, rather than the archival administrators adopting the attitude of not having to explain themselves simply because they are within their rights to deny access. Such attitudes of secrecy or fear go directly against the call to openness recommended by the Pontifical Commission for the Cultural Heritage of the Church (PCCHC): “[An] attitude of disinterested openness, kind welcome, and competent service must be taken into careful consideration so that the historical memory of the Church may be offered to the entire society.”¹¹

Once the fundamental transition point is passed, there is a vast range of exemplary praxis within active access practices and outreach activities. Praxis goals can include

¹¹ Pontifical Commission for the Cultural Heritage of the Church, “4.1 The universal destination of the archival patrimony,” *The Pastoral Function of Church Archives* (Vatican City: 2 February 1997).

providing multiple sub-topic sections on a diocesan archive's web page that detail access procedures and expectations, provide finding aids and content guides, or display online exhibits of digitized archival materials. Archivist's blogs or exhibits in partnership with other heritage institutions can be linked to archival web pages as well, providing direct online access to portions of the diocesan archive's collections.

While staffing and funding issues, or even lack of a diocesan website to begin with, can hinder reaching some of these goals, they represent the directions in which archivists can move once they have passed the transitional threshold into active access practice. Interactions with archivists from diocesan archives or other similarly structured religious or secular archives that have already implemented these services can assist by providing insight into low cost implementation or by clarifying pitfalls to avoid and successful avenues to pursue in order to reach these goals.

Among Canada's Catholic diocesan archives, at least ten institutions have impressive supplementary information about access to their collections, including finding aids, online access to samples of materials, and detailed access policies and procedures. While many dioceses have excellent collections of information, the 10 online diocesan archive content models that best represent exemplary praxis for practical active access applications are those of: the Archdiocese of Edmonton, the Archdiocese of Vancouver, the Diocese of Victoria, the Diocese of Hamilton, the Diocese of London, the Archdiocese of Toronto, l'Archdiocèse de Québec, l'Archdiocèse de Sherbrooke, the Archdiocese of Halifax-Yarmouth, and the Archdiocese of St. John's. Each of these institutions present their access information differently, from a diocesan database (Hamilton) to full online publication of policy documents (Victoria) to a polished

external web exhibit (Sherbrooke) to a completely separate dedicated archives website (Toronto and Québec).

While separate websites and dedicated databases might be out of reach for many dioceses due to resource constraints, clear detailed access information on a diocesan website, or even blogs and Facebook pages, and use of regional database networks only cost the staff time to create and input the required information. Similarly, while creating an elaborate digitized exhibit might be beyond the skill set or technical resources of some archivists, partnerships with other local heritage organizations or other diocesan archives can assist with this.¹² Valuable online exhibits can be created by simply uploading digitized document pages, as evidenced by the Diocese of London's First and Second World War exhibits. There are often lower cost alternatives that can provide similar levels of access information and direct accessibility to users of each diocesan archive, should the decision be made to strive for a particular access goal.

There are many ways archives can make information about access to their records known, or even that the archives exist. Active access practice occurs where accessibility and outreach meet. Archivists can do a great deal to promote better understanding of what can and cannot be done with diocesan archival resources by taking the first steps to bring that information to the public. Some information outlets reach wider audiences than others, particularly ones on the internet. If resources permit, archives-specific blogs, Facebook pages, Twitter feeds, and other social media outlets can be great outlets to showcase the activities of archivists and the archival treasures of a given diocese, as well

¹² The Archives of the Ukrainian Catholic Archeparchy of Winnipeg has had great success with these types of partnerships. More information can be found at Ukrainian Catholic Archeparchy of Winnipeg, "Archives", *Ministries*, <http://archeparchy.ca/page.php?id=30>, accessed 3 June 2016.

as provide an access point for digital reference services and other forms of digital interaction beyond the diocesan website. If the diocesan archival administrators are members of provincial archival associations that provide space for members' listings, including in resource networks such as provincial applications of Access to Memory software or le Réseau de diffusion des archives du Québec, contact and access information can be disseminated through those outlets as well.

Reaching beyond existing examples of improved access and access information provision already being undertaken by diocesan archives, additional possibilities exist. A movement to establish an instance of AtoM software for members of the Catholic Archivists Group, or for diocesan archives within the Canadian Conference of Catholic Bishops, could be one way to encourage diocesan archives to use inter-institution databases to highlight the value of the historical materials held in diocesan archives. Regarding training and resource sharing for online access provision, perhaps regional archival advisors with knowledge of the applicable provincial laws as well as canon law, in combination with archival database experience, could assist archives with how best to represent access to their institution online and in existing regional instances of AtoM software connected to the Canadian Archival Information Network. Creating community services such as these would only help to further unify diocesan archives, and strengthen their capabilities with available online outlets for access provision.

Of course, non-digital (or combination digital and print) resources can still be good information outlets as well. Regional Catholic newspapers, diocesan newspapers, even local secular newspapers, can serve as access points. This actively provided access content can promote exhibits, provide occasional or regular features about items from the

archives that stimulate interest, or even just include advertisements with a statement about the archives and contact information for those looking for more information. This can also be done with announcements or contact information produced for publications in diocesan or parish weekly or monthly bulletins. Posters or pamphlets for distribution and use at parish churches can serve a similar access information function as well.

The outreach side of active access practices is about engaging interested members of both small and large communities to encourage use of historical archives, to create awareness and understanding of what people can and cannot access in private diocesan archives, as well as to increase support for the archives and the work that archivists are doing. Active access thus becomes about more than basic access to the records, it becomes about knowledge and information sharing regarding what archivists actually do with a diocesan administration, as well as creating reasonable expectations for what access will or will not be like at an individual archive's own location.

Archivists must decide on the sort of information to provide regarding access. The minimum requirement should be a clear online statement of who is responsible for the diocesan archives (chancellor, staff archivist, volunteer, etc.) and how to contact them with any questions. There should be a separate page on a diocesan website dedicated to the archives that contains information on how to make an appointment with an archivist and what steps researchers can take to submit a query or use records for research. However, archival administrators can strive to provide more than just the basic information in order to encourage a better initial relationship with interested parties. Providing information about the days when an archival administrator is available, office hours, and even expected turnaround time for responding to queries is a great additional

step. Access policies and privacy or confidentiality policies could be made available online to clarify reasons for closed records or allowable uses of dioceses' private material. If finding aids are available for historical materials, or even summaries of the types of record groups kept in the diocesan archive, making these accessible online can facilitate access as well. These are just some of the reasons why providing information about access is just as important for active access practices as the actual provision of materials.

Physical accessibility of records is an aspect of access that can often get overlooked, but providing access to accessibility information should be part of archival administrators' movement towards active access. Active access policies should provide consideration for accessibility information and make the access options clear for both internal and external access needs. Assuming access to certain materials is granted, is there a physical reading room or research space for people to view originals, or is all access provided electronically, by phone, or traditional mail? Are copies allowed, or are the materials too sensitive for copies to be made? Can cameras be used for copying? If access to originals is allowed, can people with mobility issues get into the physical location to do research? Is there a policy in place to assist with access to information if the usual research space is inaccessible to those with wheelchairs, walkers, or other mobility aids? Does the archive have the technical capability to scan and create searchable PDF documents of typed files that can be read by text-to-speech software? Is a computer with text-to-speech capability available on-site where the archival records are located?

These are access considerations that may not apply to everyone, but making provisions to facilitate access for all potential researchers can make a world of difference for those who may require physical and auditory aids, or cannot get to the archives' location at all. Publicizing accessibility provisions and the archive's range of capabilities on the diocesan website or another outlet takes active access a step further, and it sets an example for all archives, diocesan and otherwise, to follow.

Even when records are being used internally by diocesan administration, aspects of accessibility can be a concern. Can copies be made and, if so, who is allowed to view them? Are there different rules for digital and physical copies? Are digital files available to be emailed en masse? Is there an office-wide shared network drive? Are USB drives available for transfer, or is there an available computer on site for viewing digital material? If records are stored on microfilm, is there a reader available on-site? If yes, is it limited to archival staff or accessible to others; if no, how is access to microfilmed records provided, and how long will it take? In which languages are the archival records produced? In Canada, records are likely to exist in English, French, Ukrainian, Latin, Italian, Russian, and others languages within a single archive's collections. Are there staff members or volunteers in the diocesan administration available to translate material, or is this the responsibility of the researcher to arrange? Active access means making decisions on these access issues before they become an issue, so that an answer is available should particular needs arise.

Active access initiatives can even extend into records management planning and practice. Chances are, in the small administrative environment of Canadian dioceses, archivists are either working with records managers directly or taking on much of this

work themselves. Providing public access timelines, restriction levels, or the provision of provenance summaries for semi-active records prior to their transfer to the archives can make for better labelling and less work if an archivist does not have to go back to the creating department to get more detail about the records after they have been transferred for archival storage. Discussions with departments about potential uses and the value of long-term access to certain types of records can help to make sure that records are in fact transferred to the archives at all, rather than being otherwise disposed of once their initial purpose or use is completed. Mary Jo Pugh advocated for outreach within the parent organization of institutional archives, noting two significant benefits to creating strong internal networks: “First, staff members may think to call when they have information needs. Information seeking often depends on human connections. Second, building such networks reinforces the usefulness of archives; staff will know why the repository is important to the organization.”¹³

This need for archival consideration early in the records life cycle is especially true of digital records. Diocesan offices may not yet have a long-term digital preservation strategy in place, and the best ways to do this are the subject of an entirely different study. However, implementing active access principles means that archivists need to ensure that diocesan offices are even preserving digital records at all, so that they are available for access. This may mean printing out hard copies of documents and images, or transferring all manner of digital materials to a secure back-up managed by the archival administrator. However, the importance of doing this before the documents become “historical” or “archival” in the eyes of creating departments is vital to long-term

¹³ Mary Jo Pugh, *Providing Reference Services for Archives & Manuscripts* (Chicago: Society of American Archivists, 2005), 144.

access, otherwise a vast amount of records will become inaccessible before they even reach the point at which the creators would consider transferring them for archival storage. This is also a concern with staff turnover, where potentially valuable records documenting events in or activities of a diocese are lost because individuals may not think to provide copies of correspondence, documentation, photographs or other audio-visual materials before they leave. If a procedure is not actively put in place to preserve this material, the likelihood that it will survive *by chance* to be accessed by future researchers is slim-to-none.

Making policy decisions about access informed by context, history, laws, active access theory and practice, as well as the real examples provided by similar archives and their archivists can lead to the streamlining of the entire archival process. Considering potential access issues when accessioning and processing new collections can mean better labelling, better finding aids, or more clearly defined metadata that will facilitate access activities in the long term. This may mean too, that archivists need to actively provide information to other diocesan administrators and pastoral councils about the importance of documenting their diocesan heritage so it is accessible in the long term, and participate in developing policies to serve archival purposes. Engaging with records creators in the diocese about the best ways to ensure the transmission of heritage for future generations is another aspect of applying active archival access practice within the diocesan framework.

Active access practices can be a uniting force from records management, accession and appraisal through to the planning of exhibits and outreach events. The goal of applying an active access framework is to constantly consider the ways in which

activities at each stage will affect access in order to streamline the diocesan archive's workflow and services, as well as how best to provide clear information to potential users of the records. This activity has to go beyond the archivists themselves. Active access involves engaging diocesan parishes, communities, administrators (especially chancellors and bishops), even inter-diocesan councils about creating and preserving the records of their church so they will be available in the future. As Sigrid McCausland pointed out in "Access: The Success of Advocacy":

Archivists need to inform or remind their supporters about the worth of the archives to the host organization. In some cases, they need to appeal to its prestige or to make sure that the communities, be they academic, interest-driven or from a locality or region, are aware of the archives and feel some connection to them. In these times, advocacy based solely on cultural heritage arguments alone is difficult to sustain in the face of economic arguments ruled by the bottom line.¹⁴

Active access principles require that archivists remind these groups and individuals of the value of the records that are accessible now because of past practices, and look for ways to improve upon past archival management to improve both administration and access in the future. It is also about engaging with professional archivists' associations, local heritage groups, and existing and potential users of the diocesan archives to share ideas, resources, improve access interactions, and above all provide clear information about access realities.

It is possible, even likely, that many archivists already carry out all of their archival functions with access in mind. However, it is structuring this thinking in a way that streamlines this activity, and makes it possible to clearly articulate how and why diocesan archives provide access in ways that are different from other archival

¹⁴ Sigrid McCausland, "Access: The Success of Advocacy," in *Made, Kept & Used: Celebrating 30 Years of the Australian Society of Archivists* (Canberra: Australian Society of Archivists, 2007), 22.

repositories. The theoretical framework that informs active access, and the practical ways of performing archival functions that flow from it can apply to any archives, not just those within a diocesan structure. However, small repositories can benefit most from proactive approaches that begin with records creation tied to access and outreach. Small corporate archives are likely engaging with semi-active records in their archival collections, and are dealing with privacy and confidentiality in different ways from large research archives that deal mainly with open, historical materials.

Catholic diocesan archives across Canada almost exclusively fall within the model of a small corporate archive with the applicable secular laws, the added layers of context from the history of Catholicism in Canada, canon law, and particular recommendations for the archives of Catholic entities. As such, the added complexity of archival practice and the need to be able to clearly articulate these complexities for archival users makes the application of an active access framework of vital importance for the administration of Canadian Catholic diocesan archives.

Conclusion

Access to Canada's Catholic diocesan archives has been shaped by a wide array of factors throughout history. Some have been national, some regional, some within the Catholic Church, and some from within the archival profession. canon law, Canadian law, and the ways in which the legal relationships intertwine differently in each province can be a complicating factor. Recommendations from the papal curia, from experienced diocesan archival administrators from both outside of Canada and within it, and the unique history of each diocese can be an overwhelming amount of information to digest. As a result, the application of various recommendations for policy and practice becomes very subjective. Mark J. Duffy and Christine M. Taylor provide a concise summary of this push-and-pull when they write, "The archivist's perspective on access and privacy in the internal environment of religious organizations draws on the ethic of respect for confidences and is further qualified by the external influences of civil law and normative practice."¹

Diocesan bishops, chancellors, archivists, and other diocesan administrators each play a role in the subjectivity of archival practice for each diocesan archival repository. This applies both to those currently overseeing the administration of a diocesan archive, and those who have done so in the past. In addition to administrators, donors, whether internal diocesan staff or members of the larger diocesan community, and users of the archives may have widely varying expectations of what a diocesan archive is or should be, which can also affect how and what information is presented to the public.

¹ Duffy and Taylor, 207.

I maintain that there are ways to ameliorate the subjectivity involved in how diocesan archivists provide access to both internal and external users of archives, particularly if archivists begin to implement active access policies and practices informed by law, recommendations, and practical examples of proactive work done by other Canadian Catholic diocesan archives. Implementing active access requires becoming aware of how fellow archivists in similar diocesan, religious, and regional archives settings have provided information about access to the public, and what proactive practices and policy development have been the most useful in their situations. Interactions with other members of various regional, national, and international professional archival networks can assist in this endeavour.

The goal of active access is to apply a theoretical framework that prioritizes streamlining archival activity and the active provision of access information around future access considerations, in order to simplify access interactions for both the archivist and the users of diocesan archives. The application of active access practices, as defined and explored in this study, will simultaneously provide perspectives on how to define privacy and confidentiality issues in a positive way while encouraging attitudes of openness and accountability, as well as the use of archival treasures within the diocesan institution or between the institution and society.

Building a streamlined access system based on practical diocesan archives experience, inter-archives communication, national and international diocesan archives standards, and the realities of two sets of law is a complicated process. However, by approaching these complications as opportunities to develop solutions to share among our archival networks, archivists can begin to move forward together to support a more

unified system of practice among diocesan archives. By taking into account the spectrum of realities that shape the implementation of access practices at individual diocesan archives, while simultaneously applying a shared theoretical approach such as that of active access principles, a national framework for access to Canadian Catholic diocesan archives is possible.

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