The Right to be Forgotten in digital collections: A survey of practice and policy at ARL institutions

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Being Forgotten in History

• Richard Brown (1997)
  • In 15th and 16th century Italy, under the Duke of Ferrera, newly-released prisoners were given the opportunity, on the occasion of three significant annual festivals, to destroy records of past offences.

• Samuel Warren and Louis Brandeis (1890)
  • Published “The Right to Privacy” in the Harvard Law Review
    • Articulated and encouraged the concept of the ‘right to be let alone’, as a right of an individual to enjoy life through the desire of privacy in an increasingly more documented and public world.
Delete by Viktor Mayer-Schönberger (2011)

• Subtitle: The Virtue of Forgetting in the Digital Age
• The notion of the ability for one to forget in order to begin anew is crucial in human history
• Calls for an equivalent to forgetting to take place in the world of “infallible machines” and “constant accessibility to information”
• “Expiration dates”
The Age of Google

- May 2014 – Mario Costeja González – European Court of Justice ruled against Google
  - 1998 article in *La Vanguardia*
  - Called even more attention to his case
    - Streisand Effect
  - Google developed a methodology, but only for the EU
United States vs. Europe
What are libraries doing about this?

- Do libraries get take-down requests?
- If so, how do we react?
- What are our policies?
- Are we consistent?
- Do we need a set of guidelines as a profession other than what we already have?
- Our survey focuses on requests made directly to the institution publishing the digital content, and not the search engine.
Literature Review

• Law
• Communications Studies
• Information Technology
Results

• 124 ARL member institutions were surveyed
• 25.8% response rate
• Survey divided between demographical questions and posed hypothetical scenarios
Approximately how long have your digital collections been online?
Types of digital items

- Images
- Text
- Newspaper
- Audio
- Video
- Data sets
- Other
Digital Platform(s)

- Fedora/Hydra: 29.58%
- DSpace: 22.54%
- ContentDM: 14.08%
- Digital Commons: 14.08%
- Omeka: 7.04%

Other/Locally designed solution (Please specify details, if available)
Takedown requests + Policy

Presence of policy

- 11 indicated some kind of policy to address takedown requests *
- 9 indicated a draft in the works

“Yes, we have a commitment to academic freedom- we will take down content that violates copyright, but won’t with a knee jerk reaction take down content that someone finds offensive.”
Requests the number of FT and PT positions, and titles

- 93% have at least 2 FT positions in place
- Varying titles and responsibilities
Hypothetical questions

Q1: You receive a request for a name to be removed from a particular item in your digital library, directly from the individual in question. The requester claims that the inclusion of their name in an openly accessible digital library violates their privacy.

The name appears in print in your digital regional newspaper collection, within the student newspaper that was published in print at your institution and later digitized for the digital collection. This content has been run through optical character recognition (OCR) software, and has been fully indexed by search engines such as Google. How would you respond?
Selected answers

• “I would check with our [General Counsel], but would assume that no change would be required- we are merely providing access to an already existing item and would not want to modify the historical record.”

• “We would redact the name somehow if the person felt strongly about it.”

• “We would maintain the digital representation of the newspaper while removing the name from the OCR text file to prevent crawlers from indexing the name and making it easily discovered.”

• “We would discuss their reasons and explain it’s a news source and we can’t change it. It would be unethical to alter news from the past. If they claim the article is defamatory, we would refer them to University Council.”
Answers (least favorite)

• “Don’t waste my time- Find yourself a lawyer and schedule an appointment with them to talk about your privacy.”
Real-life scenarios

• “We have many such requests including the removal of culturally sensitive material, removal of proprietary company information (included inadvertently in student dissertations), removal of improperly published content. Copyright ownership and cultural sensitivity are our two major decision points.”

• Example of redacted Social Security numbers or supplement a public record

• Removed an oral history file, where the interviewee had mentioned a fact about another individual that the individual’s family felt was slanderous. Since the institution was courting the latter’s family for a potential donor, the request was permitted, and access to the file is only provided upon request
Take-aways/Discussion

- Lack of consistency in practice
- Lack of understanding of the nature of takedown requests and copyright
- Most institutions lack policy/guiding principles to assist with decision making
- Long-term effect of varying practice on openly accessible digital collections
  - (And are they really openly accessibly digital collections anymore??)
References and selected bibliography

Thank you!

Questions/Comments?

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