Digitizing Modern Archival Collections, Or How We Addressed Copyright in the Murky Waters of Clippings, Student Strike Papers and More

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Digitizing Modern Archival Collections

Or: How We Addressed Privacy and Copyright in the Murky Waters of Clippings, Student Strike Papers, and More

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Best Practices Exchange
May 1, 2019
Privacy and Copyright
Kent State May 4th Collection background

Kent State University was placed into the international spotlight on May 4, 1970, after 13 students were shot by members of the Ohio National Guard at a student demonstration.

Four students were killed and nine others were wounded, including one who was permanently paralyzed from his injury.

The May 4 Collection, established by the Kent State University Libraries in 1970, includes over 300 cubic feet of primary sources related to the Kent State shootings and their aftermath.

The collection is open to the public and is used by researchers from around the world.
About the May 4th NHPRC Grant Project

• In 2016, Kent State University Libraries was awarded $119,443 matching grant from the National Historical Publications and Records Commission (NHPRC) to digitize ~35 cubic feet of archival content, mostly documents

• Primarily, material were drawn from administrative, faculty, and student subcollections

• The two year grant ran from September 2016-August 2018, and really pushed some interesting questions around complex copyright & privacy within our grant project working group

More information on the grant and the specific subcollections can be found here: https://www.library.kent.edu/special-collections-and-archives/nhprc
Privacy Review

“Privacy, like an elephant, is more readily recognized than described.”
John Young, 1978

- Dealing with a modern archival collection led to LOTS of internal debate on creating a process to review and identify
  - Personally Identifiable Information (PII)
  - Other more elusive aspects, many bordering on ethical situations

National Institute of Standards and Technology, “Guide to Protecting the Confidentiality of Personal Identifiable Information”,
https://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-122.pdf
Privacy review, cont.

- Family Educational Rights and Privacy Act of 1974 (FERPA) protected certain information in student records
- Identify & redact private information before publishing item
- Conducted 2 separate privacy reviews to ensure a thorough assessment
Example #1 (Privacy)

- Redact Directory information when grades are discussed (FERPA)
Example #2 (Privacy)

- Example of strike paper from Wisconsin State College, Oshkosh, dated 1968 to 1970. Materials included flyers, leaflets, memos, resolutions, and articles from the student papers, The Oshkosh Advance-Titan and The Blade
- On the second privacy review, staff member picked up three unpublished documents that listed students who were suspended
Copyright

“The law is agnostic between creators and infringers, favoring only creativity and the harvest of knowledge.”

U.S. District Judge Loretta Preska
Adjmi v. DLT Entertainment, LTD.
Copyright Review

Standard Questions for Use of Copyrighted Works:

1. Is the work in the public domain?
2. Is there a license and does that license allow for your use?
3. Is there a portion of the U.S. Copyright Law that allows for your use?
4. Can you make a good case for fair use?
5. Do you need to seek permission?
Copyright Review

Standard Questions as adapted for the May 4th project:

1. Is the work in the public domain?
2. Does Kent State University own the copyright to the work?
3. Can we make a good case for fair use?
   1. How can Best Practices or other guidelines help in thinking this through?
4. Do we need to seek permission/license?
5. If we cannot obtain permissions, can we make a case for fair use?
ARL Code of Best Practices


https://www.arl.org/focus-areas/copyright-ip/fair-use/code-of-best-practices

- “published and unpublished”
- “copyright status is often unclear”
- “typically can be consulted only on-site”
- “unique assemblage or aggregation”
- “organized around a key topic, era, or theme”
- “Presenting these unique collections as a digital aggregate, especially with commentary, criticism, and other curation, can be highly transformative.”
Peter Hirtle


https://hdl.handle.net/1813/14142

• Copyright basics
• Risk assessment
• *Safe Digitization Workflow* flowchart on page 203.
Hirtle – Safe Digitization Workflow

FLOWCHART 10.1
Safe Digitization Workflow

- You are the 0-owner of all the copyrights in the work (Chapter 1).
- All the copyrights in the work are in the public domain (Chapter 1).
- A Section 107, Library and Archives, exception applies (Chapter 4).
- A Section 107, Fair Use Analysis, exception applies (Chapter 4).
- Permission can’t be secured because the 0-owner can’t be found (Chapter 1).
- Permission can’t be secured because the 0-owner can’t be found (Chapter 1).
- You have secured permission from the 0-owner (Chapters 7 and 8).

Digitize when...

From Hirtle et al., p. 203 - https://hdl.handle.net/1813/14142
Kenny Crews’ Fair Use Checklist

Kenneth D. Crews (formerly of Columbia University) and Dwayne K. Buttler (University of Louisville). *Fair Use Checklist.*

https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html

- We adapted this to make it a PDF form that can be filled out, saved, and cleared.
- Sometimes there were long debates and discussions of fair use cases among all members of the team.
Relationships
Comments On KSU Tragedy

It's Totalitarianism

The past week has been violent. From the University, it has spilled to the nation. The government has intervened to stop the violence. This is totalitarianism.

Denies Charges He Acted Like 'Czar'

Denies that he was acting like a czar. The newspaper article stated that he was. The newspaper article was false.

Biggest Mistake Was Keeping KSU Open--Saxbe

Saxbe said that the biggest mistake was keeping KSU open. He thinks it was a mistake to keep the university open.

Example 1
Example 2

• Simple Gestures Installation in 1995
  • Photographs of custom-made seed packets

“They tried to bury us. They didn’t know we were seeds.” – Dinos Christianopoulos

From: https://omeka.library.kent.edu/special-collections/items/show/3519
Example 2

• Simple Gestures Installation in 1995, cont’d.
  • Poem by Gary Geddes
  
  https://canpoetry.library.utoronto.ca/geddes/index.htm
Example 2

- Simple Gestures Installation in 1995, cont’d.

From: https://omeka.library.kent.edu/special-collections/items/show/3523?search=simple%20gestures
Example 3

• George Segal materials
  • *Abraham and Isaac* sculpture, now installed at Princeton University

From: https://omeka.library.kent.edu/special-collections/items/show/3306 - Photo credit Nancy Birk, former Curator of Kent State Special Collections and Archives
Example 3

- George Segal licenses
Questions?

Thank you!!

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Kent State’s May 4 memorial is surrounded by 58,175 daffodils, the number of the country’s losses in Viet Nam.
Thank You.

www.kent.edu