Navigating complex issues in modern archival collections: Privacy and copyright

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Dublin, OH
October 4, 2019
Navigating 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.

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 KSU 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
Privacy Review

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

Dealing with a modern archival collection led to internal discussion on a review process for privacy
- Personally Identifiable Information (PII)
- Other forms for private information (relating to religion, sexuality, etc.)
Personally Identifiable Information (PII)

PII is any information that can be used to distinguish an individual’s identity.

Examples include:

Proper names, aliases, identification numbers, address, date of birth, place of birth, race, religion, weight, activities, geographical indicators, employment information, medical information, education information, financial information

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 continued…

Privacy breaches through open dissemination of PII are hazardous to both individuals & organizations

Harm from disclosing PII could include identity theft, embarrassment, or blackmail.

NIST guide recommends institutions devise their own list of the kinds of information that should be protected
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 © owner of all the copyrights in the work [Chapter 2]

IF NO...

All the copyrights in the work are in the public domain [Chapter 3]

IF NO...

Permission can’t be secured because the © owner can’t be found [Chapter 4]

Reprint Section 107
Fair Use Analysis [Chapter 5]

IF NO...

A Section 108, Libraries and Archives, exemption applies [Chapter 6]

IF NO...

A Section 107, Fair Use, exemption applies [Chapter 5]

IF NO...

Explain, Solicit, Document, and Avoid Commercial Use [Chapter 10]

You have secured permission from the © owner [Chapters 2 and 3]
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
Example 1 (Copyright): Newspaper clippings
Example 2 (Copyright): Campus Strike Papers

Northwestern University
Campus Strike Vote Poster
May 5, 1970
Example 3 (Copyright): Miscellaneous

• 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
Example 3 (Copyright)

• Simple Gestures Installation in 1995, cont’d.
  • Poem by Gary Geddes

https://canpoetry.library.utoronto.ca/geddes/index.htm
Example 3 (Copyright)

• Simple Gestures Installation in 1995, cont’d.
Example 4 (Copyright): Art

- George Segal materials
  - *Abraham and Isaac* sculpture, now installed at Princeton University
Example 4 (Copyright)

Project tracking of copyright and fair use forms
Review processes worked into platform & metadata
References


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
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10/4/2019

References:


Web Sites, in order of appearance:

Kent State University Special Collections and Archives, May 4th Collection https://www.library.kent.edu/special-collections-and-archives/kent-state-shootings-may-4-collection

Kent State University Special Collections and Archives, NHRPC Grant https://www.library.kent.edu/special-collections-and-archives/nhprc

Correspondence: Students to Fishel https://omeka.library.kent.edu/special-collections/items/show/2815

Campus Strike Papers: Wisconsin https://omeka.library.kent.edu/special-collections/items/show/2815

Copyright for Educators and Librarians https://www.coursera.org/learn/copyright-for-education

Newspaper Clippings (example) https://omeka.library.kent.edu/special-collections/items/show/2926

Campus Strike Papers: Northwestern https://omeka.library.kent.edu/special-collections/items/show/4023

Simple Gestures Installation https://omeka.library.kent.edu/special-collections/items/show/3519

Gary Geddes, poet https://canpoetry.library.utoronto.ca/geddes/index.htm

George Segal, Abraham and Isaac https://omeka.library.kent.edu/special-collections/items/show/3306

Harry Ransom Center, University of Texas at Austin https://www.hrc.utexas.edu/

Artists Rights Society https://www.arsny.com/