Copyright First Responders: Decentralized Expertise, Cultural Institutions, and Risk

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INTRODUCTION

Today librarians and other information professionals regularly intersect with intellectual property law. As our work increasingly encompasses copyright-intensive programs and projects (e.g., digitization, scholarly publishing, open access, streaming media, MOOCs, and more), questions about fair use, public domain, and copyright law invariably emerge. Libraries occupy a liminal space, they both serve knowledge creation and information access and enjoy special privileges under copyright law.

Unfortunately, comprehensive copyright training is still not a pillar of LIS programs,1 and while there are seminal resources to look to and professional development opportunities to explore (e.g., MOOCs, copyright bootcamps, or one-offs at conferences), this sort of support may feel ephemeral or once removed. In response, Copyright First Responders (CFR) training is designed to create a network of local copyright experts who can support each other in efforts to provide thoughtful and responsive copyright support to their community.

Over the last six years, the CFR program has extended from its origins at Harvard Library to Alaska, Arizona, California, Massachusetts, New Hampshire, Oregon, Rhode Island, and Washington. Does training copyright experts reasonably reduce risk for an institution? How does the CFR curriculum fill a well-documented gap in information professional training and help drive the learning experiences that become the backbone of local services? How does the CFR’s decentralized hub-and-spoke model best serve the interest of these participating institutions?

Here we will explore the structure underpinning the CFR program and share how it aims to reduce risk and provide mission-critical expertise in libraries and archives.

PROBLEM

Library services have evolved over time, and so too has library education. As programs correct course to take into account the shifts required when trends become established practice, there are invariably gaps, which need to be filled through either on-the-job training or professional...
development. As noted above, to practice responsive, informed librarianship in the twenty-first century, librarians need to both understand and advocate for copyright law to provide effective service to their communities. A very small sampling of the literature on copyright training for librarians identifies the need for copyright expertise and documents the absence of training available to librarians to arm them to be well informed enough to be effective in their roles.²

One might argue that practitioners can find opportunities to scaffold their copyright learning; as a small subsampling, for example, Kenny Crews’s and Peter Hirtle’s essential resources, Coursera’s and HarvardX’s copyright-focused offerings, and the Kraemer Copyright Conference, the Library Copyright Institute, and the Miami University Libraries Copyright Conference for professional development and networking, do offer librarians a supply of tools for their copyright toolbox.³

Professional development and on-the-job training are a norm of librarianship. To remain relevant in an evolving ecosystem, it is imperative that we seek opportunities for learning and growth. And while available, these resources and learning opportunities are often stand-alone or singular opportunities, without the deep engagement afforded with an immersion experience or continual learning. As Reeves states, “Deciphering copyright law is no minor challenge…. It is not clear-cut or absolute.”⁴ The strength of copyright’s flexibility and built-in balance presents great opportunity and also inherent challenges when offering support. Library professionals and their larger institutions have to consider risk aversion and be clear that they are not providing legal assistance. Making these sorts of decisions with limited training can be fear-inspiring.

As an antidote to all of these challenges, the strength of CFR training, which is missing from other professional development opportunities that seem available thus far, is creating a decentralized hub-and-spoke copyright learning community that can provide network-wide support in a trusted environment over time.

**SOLUTION**

With its start at Harvard Library, the CFR program was developed with one thing in mind: training librarians to be copyright experts in their roles on the front lines. While many colleges and universities may have a central copyright office or general counsel (who may or may not have the capacity to address these questions), a decentralized service operating out of the library offers the community more responsive, nimble support in answering many of these questions and fostering greater understanding of copyright across the university.

When engaging with copyright questions, a solid and practical understanding of copyright law is necessary. However, knowing the factual background of the question is equally as critical. This is often discipline-specific. Whatever the field of study, knowledge of the discipline’s subject matter, norms, and so on, is relevant to a copyright question’s framing:⁵ How does the community approach and disseminate information? What databases and licenses are common in the field? Where are the materials located and accessed? Because librarians frequently have degrees or extensive work experience in the fields they serve, their practical, contextual knowledge makes for a solid ground on which to engage with copyright questions.

A librarian’s subject-informed copyright expertise is powerful and can serve the institution’s best interests. Coupling this expertise with a library-focused copyright curriculum, emphasizing the special nature of libraries under copyright law, is a cornerstone of the CFR program. A well-trained CFR can ease a patron’s fears and present relevant legal alternatives
grounded in well-established library law and policy. This reduces risk and serves to create an informed, empowered community.

The “how” of the CFR program has been equally important to its success. The hub-and-spoke model has proven utility in other spheres, such as health care, shipping, and education, that are “immensely complex” and “characterized by perpetual change,” much like copyright (which is complex and continues to evolve with new case law). As Elrod and Fortenberry note, “the hub-and-spoke model affords unique opportunities to maximize efficiencies and effectiveness … in a manner that fosters resource conservation, return on investment, service excellence, and enhanced market coverage.” This might not be language common to libraries, but the underlying principles are: we do not have a lot of capital or endless resources, but we are devoted to serving our communities as best as we are able.

With the CFRs, the distributed hub-and-spoke approach to teaching and learning relies initially on a copyright expert, or hub, for hands-on, case law–rooted foundational training. Once graduated from the CFR program, these new copyright experts, or spokes, serve as local hubs, grounding the program, training colleagues and staff, and serving as a liaison between the different constituents (e.g., users, other CFRs, and administration and institutional stakeholders). As spokes, they can also move higher-level questions upward to the expert hub. Trained local staff become spokes out to the community, providing information about copyright and a point of access to the local CFR hub.

This tiered level of support ensures the right resources are devoted to the community’s questions. For example, FAQs (e.g., “Do I need to cite my own previously published work in my dissertation?”) can be triaged by appropriately trained frontline staff (e.g., circulation or reference staff, etc.). Weightier questions (e.g., “I am doing a project on activism and social media. Can I scrape Facebook event pages?”) should be addressed by the CFR, in partnership with the copyright expert as needed. In rare cases where the initial copyright expert hub needs administrative-level support, the institution’s general counsel or copyright office is a key partner in the program. User needs are met with the appropriate level of resources at the right time.

Communication and collaboration between the hub and spokes are critical for a CFR program’s success. As the program advances, eventually the hubs and spokes expand and build greater networks of hubs and spokes into the community. As more CFRs are added to the program, coverage in institutions, departments, and units develops. This can be the beginning of new and useful contact points through an institution that can aid in the creation of structures and workflows. With local hubs serving as data points, the institution will gain a better understanding of the copyright questions with which the community is struggling and the answers provided. With this information, administrators can develop appropriate, responsive copyright policies that aid the mission of the institution.

The beauty of this program is that it is scalable. Whether a CFR program exists within a library, institution, consortium, or region, the same principles apply: a copyright expert trains a cohort. The cohort become points of support for one another as they go out to serve their communities, with the hub serving as a touchstone for higher-level questions or providing updates and roundups.

Which brings us to the last and perhaps most important hallmark of the CFR program: in learning together, the cohort becomes a community. During their training, CFRs build a shared understanding, but also a trust, which fosters a willingness to raise questions and discuss potential solutions to copyright questions. Not only the training, but also the shared experience, creates a thoughtful network of engaged, empowered colleagues that understand copyright, continue to learn together, support each other, and thereby better serve their communities, their collections, their institutions, and the scholarly enterprise.
NOTES


4. Reeves, "Understanding Copyright," 67.


BIBLIOGRAPHY


