

CDMLA Provenance and Rights Framework

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Purpose

The purpose of this framework and policy is to articulate the CDMLA's understanding of creatorship and provenance and how that guides the CDMLA's approach to archival practices and relationships with creators. This framework will also support staff and volunteers in describing provenance of records as well as better navigating, building and creating relationships with creators, researchers and communities.

Implementation

This framework will be implemented by distributing it to CDMLA staff and volunteers and by providing training. It will also be accessible to interested parties as part of reciprocity with the wider artist-run center and independent archives community.

Some parts of this framework are articulating pre-existing practices and strategies for transparency and equitable applications, however, other aspects of the framework will also require CDMLA to develop new approaches and deepen relational practices at the institution.

We are hoping to enhance transparency and better share and act from our values.

Revision History

As of March 2021, this policy has been a collaboration between Karen Knights (Archives Manager) and Syr Reifsteck (Archivist) in cross-temporal dialogue with past archivists and librarians. Moving into implementation of the framework for video works, the archive will collaborate with Video Out to clarify the historical relationship between distribution and library acquisition and, going forward, how works transfer from Video Out into the archive.

Future changes to this policy, including changes from the Archive Committee, will be outlined here as they occur.

Historical Background

The SVES' originating philosophy was rooted in large part in the media democratization and media literacy movements of the 1960s, and promoted free or broader access to alternative information. New mechanisms were explored to expand access by and about underrepresented communities and ideas to the public. Strategies to achieve this included free or low-cost access to amateur portable video recorders and post-production, advocating for community cable systems, developing creator-centric dissemination models (free and for pay). The most relevant to this policy are the Image Bank mail art project created by Michael Goldberg that lead to the publication of the International Video Exchange Directory (8 editions), incorporation of the Satellite Video Exchange Society (1973), and the establishment of the public-facing SVES' Video Inn Library (1973).

Video came to be in the Video Inn Library through several channels:

- The Matrix Conference (1973)
- By mail, from participants in the Exchange Network
- Submitted in person (by locals and travellers)
- Gathered by SVES collective members. Early examples: the Video Inn Cross-Canada bus tour (1975) and Shawn Preus and Andy Harvey's European tour (1977).
- Solicitation of non-members using the facilities, for example, producers screening work at Video Inn or artists-in-residence.
- By members, as a condition of subsidized production and post-production use of the facilities (SVES as co-producer effectively)
- Through Video Out Distribution

Depositors at this historic time, included:

- Artists
 - Activists or producers interested in social change
 - Students
 - Video organizations and collectives
 - Broadcast: illegal off-air recordings
 - Video producers [interested in learning video production as a career; all genres]
- Not all early submissions were deposited by the video's creator.

While the majority of video at the Video Inn library was produced in what is known as Vancouver, British Columbia, the collection is international in scope. Technical quality was not a consideration in accepting a video. An effort was made to represent video art and documentary-influenced work in equal numbers.

The media democracy movement was a diverse coalition, generally progressive politically, but not exclusively. Any controversial material was discussed amongst the collective and could be rejected.

Creators and Provenance within CDMLA

The above history shapes how the CDMLA thinks of creatorship and provenance/origins of media and other collections that may be deposited to the CDMLA.

For textual records and deposits/transfers, the CDMLA recognizes the individual, organization, collective or family that created or received the records in the collection as the creator, which shapes how the archive documents these collections and makes them accessible. The CDMLA generally navigates the deposit/donation agreements (Deed of Gift or MoU) with the creator(s) or someone authorized to act on behalf of the creator(s).

For media works, as an artist-run centre, VIVO has accepted the definition of the creator as the individual controlling the production, often, but not always, from conception to completion. VIVO does not impose this definition if the production self-defines otherwise (ie. a collective). Some people want to self-define as artists, others, as producers. Which is used varies based on the genre, its relativity to experimental form, and the creator's milieu. On our forms and contracts for depositing media works, we use the generic "producer(s)". The "producer" or producing collective is generally the one who deposits works and makes arrangements/agreements for their preservation, reuse, and distribution by, at first, Video Out, and, later, the CDMLA.

Additionally, many individuals or communities may be involved, and be part of the provenance, of a work or works and/or a collection. The CDMLA attempts to recognize this through description on findings aids and in the database, and to seek out these individuals and communities (e.g. Indigenous communities) as appropriate. The archive recognizes that provenance is broad and can include those behind the scenes, the lead creator(s) and those depicted or named in records/works. The CDMLA is committed to crediting and naming/contextualizing all those who are part of the origins of the records in our case as best we are able.

Types of Creators and Works

Producers and creators at the archive include:

- Artists
- Activists
- Producers
- Video Organizations
- Collectives

Some creators may deposit individual works such as video works or other media to the archive, others may deposit their fonds - body of records created/accumulated by a creator or creators across media types-, or a specific collection.

Rights

Depositors - including producers and other creators - negotiate how their rights will be held with the CDMLA and Video Out Distribution. Agreements and other documents such a Deed of Gift or Memorandum of Understanding may be used to ensure producers and other depositors communicate

how they would like work held and used and what rights they want to maintain.

The CDMLA also recognizes that for some materials other rights may need to be acknowledged as part of these negotiations around use (e.g. Indigenous communities).

Fair Dealing and Exceptions

Some artist or activist works may incorporate the work of others - with or without citation. Fair Dealing under the copyright Act protects artists works for purposes of private study, parody, satire, research and education.

We recognize and support the creator's right to criticize, examine, and educate through the appropriation of commercial and political materials without citation. We support appropriation as a historic and necessary strategy for criticizing and revealing the mechanisms of control, suppression, erasure of, and as acts of violence upon marginalized peoples.

Discoverability of Individuals and Communities

The CDMLA aims to surface individuals, communities, movements, and practices that appear in, shaped, and/or influenced records and works in the archive. At this time, much of the responsibility for this relies on staff with the deepest knowledge of the collection. We are continuing to develop resources to support this practice, such as:

- Regular finding aids (online at vivomediaarts.com/archive and MemoryBC)
- Speciality Finding aids (ie Every Queer Thing)
- MAAD (Media Artist and Activist Documentation)
- Archival Activations (Programing such as Sticky Impulse Nights and Evening at the Archive)

A Note on Copyright

As a counter-archive holding the histories of oppressed communities we support the creator's right to control how and where their works can be accessed or disseminated. As an artist run-centre we support copyrights, including moral copyrights of creators.

We support artists and producers' rights to determine who has control and what kind of control over their works and records. The default for media works is that copyright belongs and remains with the producer (media) and/or creator(fonds), unless otherwise stated. Provenance information is taken from the documents submitted with the record(s)/work(s) such as the Llibrary Agreement Form and Deed of Gift form. As staff conduct research, notes related to rights and provenance may be added or expanded.

Agreement and Recognition

Recognizing and upholding agreements made with the creators, producers and others is important to the CMDLA and the broader organization. A number of tools are part of the CDMLA process to ensure we do our best to follow the desire of the creators about their works and records, and for recognizing and giving credit to both the creator and the broader provenance/context of works and records.

Donor Agreements/Deed of Gift (Minor and Major Special Collections)

A template agreement/donation form used by the CMDLA.

The Deed of Gift formalizes the donation/gift of a naturally occurring fonds, a body of records/tapes, or a minor collection. Often these donations span multiple media types.

Library Agreements and Distribution Contracts (Media)

Library Agreement Forms are a foundational document for many of the video works in the CDMLA. They stipulated the conditions of the agreement and gave permission for the works to be stored in the library. Distribution contracts between Video Out and producers now serve a similar function. After a work has ceased to be in active distribution (term outlined in the Distribution Contract), it becomes a part of the CDMLA unless the producer opts out. The CDMLA will then seek a library agreement with the producer to define public access or impose restrictions.

Additional Agreement/ Recognition Options with Creators, Stakeholders and Communities

Additional agreements can be made through formal deeds of gift amendments or by verbal and written request. Examples include:

- changes to agreements and contracts at any time
- access limitations beyond those stipulated in standard Library Agreements or Distribution Contracts including:
 - privacy restrictions
 - audience restrictions
 - venue restrictions
 - refusal to collaborate with state-imposed controls
- removal of names and/or identifying images (ie where identification could cause harm)
- Holding in Trust
- Withdrawal of materials by the creator/donor

Requests can also be made for appropriate recognition of individuals/communities. SVES policies or legal requirements may also result in further restrictions to access.

Community Cultural Rights

The CDMLA affirms Indigenous communities rights to cultural property and Traditional Knowledge. Additional agreements, acknowledgements and restrictions are available to protect these rights and treat any related material appropriately, including possible return of materials.

Additionally, producers, donors and artists are also always able to negotiate unique agreements, restrictions, and possibilities for depositing their materials at CDMLA that reflect their desires, needs, and visions for its long term care.

As the CDMLA processes older materials, we will reach out to connect materials to related communities and individuals. Materials will also be marked with [Attribution Incomplete notices](#) when these connections are unknown or not yet made.

Unknown Provenance and/or Copyright

The CDMLA stewards materials where copyright or provenance may not be known. This is especially true of pre-2000 materials. Materials may include originals, off-air broadcasts, bootleg recordings, materials collected by the donor in the course of production research, materials acquired by the donor from other artists (with permission and without) and materials in personal or organization funds deposited prior to a formal assessment being made.

As materials are assessed and catalogued we work to identify the source of the materials and attribute them to the appropriate creator(s). At this time, the CDMLA leans towards preserving these materials until such time as it has the capacity to track original creators or fully determine the value of the object to funds or the collection as a whole.

Generally, access is restricted to research only, and only if there are no apparent reasons for privacy restrictions. Materials may be exhibited in house.

Ascertaining Provenance

Internal sources for establishing the provenance of works deposited to the library include:

- Matrix Registration Forms
- Library Agreement Forms
- Distribution contracts
- Exchange Directories and associated correspondence
- SVES Daybooks
- Bus Tour Diaries
- Correspondence related to collective members' travel
- Network Files
- General Correspondence