

“Capture and Release”: Digital Cameras in the Reading Room

Lisa Miller, Steven K. Galbraith, and the RLG Partnership Working Group on Streamlining Photography and Scanning



A publication of OCLC Research

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Lisa Miller, Steven K. Galbraith, and the RLG Partnership Working Group on Streamlining
Photography and Scanning, for OCLC Research

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February 2010

OCLC Research

Dublin, Ohio 43017 USA

www.oclc.org

ISBN: 1-55653-377-2 (978-1-55653-377-8)

OCLC (WorldCat): 506031443

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Suggested citation:

Miller, Lisa, Steven K. Galbraith, et al. 2010. “Capture and Release”: Digital Cameras in the Reading
Room. Report produced by OCLC Research. Published online

at: <http://www.oclc.org/research/publications/library/2010/2010-05.pdf>

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Introduction

Digital cameras are revolutionizing special collections reading rooms and the research process, much as photocopier machines did for a previous generation. Reference routines focused on the photocopier are embedded in workflows of every repository; photocopying is accepted by repositories, tolerated by rights holders, and expected by researchers. Now technology is forcing repositories to confront change again. The ubiquity of digital cameras and other mobile capture devices has resulted in researchers desiring and expecting to use cameras in reading rooms. While some librarians and archivists have resisted digital cameras, others have embraced them—and rightfully so. The benefits to researchers, repositories, and collection materials are undeniable.

Benefits

Digital cameras are gentler on collection materials—Upending collection materials to position them on a photocopier machine, even when done with the utmost care, risks more damage to materials than photographing them in the reading room while they are face up and appropriately supported. The materials are not subjected to the intense light of a photocopier, but rather are usually easily photographed with ambient lighting.

Digital cameras facilitate use—Researchers with limited time can cover more collection materials during their visit by photographing relevant materials for in-depth study later. We preserve these materials so that they can be used. More use allows us to report higher reference figures and significant research use to our resource allocators.

Digital cameras increase researcher satisfaction—Researchers must take time from work and school to travel to our reading rooms during our limited business hours, often at great expense. Just as libraries and archives struggle with tighter budgets in these challenging economic times, so, too, do researchers. Digital cameras maximize their precious time in the reading room and end their wait for copies. Depending on the nature of the repository’s camera use policy, patrons may also save money and eliminate time spent on photocopy request paperwork. They may also make copies of a broader universe of materials, like oversized materials and bound volumes that are excluded from the photocopy policies of many repositories, and they can make color copies. Given a choice between two repositories, one that has more generous policies and one that does not, researchers may make choices accordingly.

Digital cameras reduce repository workload—Depending on the repository’s photocopy and digital camera policies, allowing personal digital cameras outsources duplication tasks to the user, freeing staff to perform other work in these times of increased demands, expectations, and workloads. In addition, cameras may reduce photocopier maintenance and supplies.

Digital cameras enhance security and save reading room checkout time—Digital cameras decrease the number of photocopies leaving the reading room in the hands of researchers, reducing checkout time and the opportunity for theft. With twentieth- and twenty-first-century collections, it is frequently difficult to distinguish between copies and originals.

Digital cameras save paper and photocopy toner—Photographing materials is an effortless way to reduce our environmental impact.

Repositories stay current and resolve an ongoing issue—Repositories remain largely analog outposts, in contrast to the 24/7 online world that most people live and work in. As much as we would like to deliver collection materials to all online, it is still beyond our grasp. Digital cameras are research tools that reach across this online/offline divide, one researcher at a time.

Digital cameras reduce liability for copyright infringement—Digital cameras lessen the repository’s risk profile, especially if it maintains a “hands-off” approach towards the use of personal cameras. When a repository makes copies of copyrighted documents for users or provides equipment on which users can make their own copies, it runs the risk of engaging in direct and indirect copyright infringement.

Duplication, Copyright and the Web

Section 108 of U.S. copyright law allows repositories to make digital copies of textual material for private study, scholarship, or research. If making a copy of an entire book or manuscript item or a substantial part of it for a user, the repository must determine that a copy is not available at a fair price.¹ For non-textual material, such as photographs, the law allows repositories to make copies only if the repository concludes that the user’s request is a fair use—a difficult, and potentially risky, assumption.² By allowing patrons to use their digital cameras, the repository removes itself from the duplication process and eliminates the risk associated with making copies.

Section 108(f)(1) protects a repository from secondary liability for the “*unsupervised* use of reproducing equipment located on its premises” (emphasis added), provided that the equipment displays a notice that making copies may be subject to copyright law.³ Ironically, *supervised* use of reproduction equipment, such as requiring users to seek permission before making any copies, increases the repository’s risk of liability.

Rather than place a notice on cameras, the Section 108 Study Group recommended that a notice be posted prominently in public areas stating that making copies may be subject to copyright law.⁴ Such a statement should also appear on digital camera use agreements signed by researchers.

Reading room photography does not lead inexorably to collection materials inappropriately ending up online. This issue is already managed by each repository’s publication policy. Many repositories have been providing digital reproductions to patrons for years under existing duplication and publication policies. Given how easy it is to digitize analog reproductions, drawing distinctions between analog and digital copies makes little sense. Some repositories consider responsible reuse of images on the Web as good outreach.

Suggested Practices for Cameras in the Reading Room

To synthesize a core of suggested practices, the RLG Partnership working group reviewed the current policies of thirty-five repositories comprised of academic libraries, independent research libraries, historical societies, government archives, and public libraries (see Appendix A. Policies Reviewed on page 13). Below are the most commonly shared elements, arranged in categories for administration and handling of collection materials.

Administration

- Require camera users to complete and sign an application/policy/terms-of-use form agreeing that images of sensitive and copyrighted materials will only be used for study, teaching, or research purposes and will be used in compliance with copyright law. Some agreements also stipulate that the user cannot reproduce images without permission from the institution. A few forms require the user to list specifically what he or she is digitally reproducing. This allows the institution to keep statistics on what and how much is being digitized and to check whether any of the materials already exist in the institution's digital repository, though it increases liability for copyright infringement.
- Staff reviews collection materials prior to photography. This ensures that items are not too fragile to be reproduced and allows staff to note any copyright or donor restrictions, though it also places the institution at greater risk of liability.
- Limit the number of shots, when appropriate, to a quantity determined by institutional policy and/or in accordance with copyright policies.
- Watermark digital reproductions by requiring that each item be photographed with a streamer, transparency, or card that identifies the item and its holding institution and, if

applicable, displays a copyright notice. Patrons are responsible for properly citing their copies, but repositories may provide citation guidelines.

- Digital photography must not disturb other users or staff. All audio functions on digital cameras must be turned off and users may not photograph other patrons, staff, or the reading room.

Handling Collection Materials

- No flash photography. It is a distraction to other users.⁵
- As with any method of duplication, camera use is considered only if it will not damage collection materials. Users are instructed on how to handle items during photography.
- In an effort to monitor how users handle items during photography, several institutions designate specific work areas where items may be photographed or have a staff member present during shooting. Some provide or require use of an in-house camera stand. Some policies make a point of prohibiting users from bringing their own tripods or lighting equipment.

Evolving Practices for Digital Cameras in Reading Rooms

- Beyond the suggested practices above, many facets of digital camera use continue to develop and can be implemented independently along sliding scales represented in Table 1. A repository can mix and match from these modules according to its nature, needs, and inclination.
- Established photocopy policies and processes often form the baseline for a repository’s digital camera policy. If the staff performs all photocopying, an appointment and designated workstation for digital photography, supervised by the photocopy staff and with time charged to the researcher, may be the logical approach. As an alternative, the digital camera policy could steer researchers toward some goal of the repository, such as reducing the staff’s photocopy workload or achieving a paperless duplication system. A repository might encourage both of these goals by continuing to charge its standard rate for photocopies while not charging for copies made with digital cameras. The repository can swap out one facet for another as it experiments with cameras, and gradually settle on a policy that works for it.

Table 1. Faceted Camera Use Grid

Facet	Shutter-bug	Exposed	Camera-shy
Traditional photocopying (possible baseline for digital camera policy)	<ul style="list-style-type: none"> • Self-service 	<ul style="list-style-type: none"> • Self-service after staff review 	<ul style="list-style-type: none"> • All copying done by staff
Equipment	<ul style="list-style-type: none"> • No flash, no lights • Allow flatbed scanners • Allow and/or provide copy stand, tripod, extension cords, stepstool, etc. • Repository supplies camera or self-service overhead book scanner in addition to allowing patron's camera 	<ul style="list-style-type: none"> • Patron's camera • Limits on supporting equipment (copy stands, tripods, cords, etc.)—some pieces allowed, others not • No flatbed scanners 	<ul style="list-style-type: none"> • Repository's camera only (and possibly other equipment supplied by repository)
Photography space	<ul style="list-style-type: none"> • In reading room at any station 	<ul style="list-style-type: none"> • In reading room at designated stations, usually close to reference desk 	<ul style="list-style-type: none"> • Separate room
Photography rules	<ul style="list-style-type: none"> • No standing on tables or chairs • No rearrangement of furniture • No materials on floor • Remain behind table, facing forward at all times • Set camera to “mute” • Do not disturb others • No photographs of reading room, staff, or patrons 		
Appointments	<ul style="list-style-type: none"> • Appointment not required 	<ul style="list-style-type: none"> • Appointment made during visit 	<ul style="list-style-type: none"> • Appointment made in writing in advance
Staff review of collection materials	<ul style="list-style-type: none"> • Part of standard staff surveillance of patrons in reading room 	<ul style="list-style-type: none"> • Patron must verbally notify reference attendant each time camera is used and show attendant the materials being photographed 	<ul style="list-style-type: none"> • Patron must formally indicate and curatorial staff formally review all materials • Camera stays in locker until approval is given • Same-day approval may not be possible

Continued on next page

Table 1. Faceted Camera Use Grid—*Continued*

Facet	Shutter-bug	Exposed	Camera-shy
Materials handling rules	<ul style="list-style-type: none"> • Preservation needs always trump photography needs • Do not manipulate materials to achieve a better image • Do not press down on materials or bindings • Manuscript materials must always be flat on the table and not held up in air • Loose materials must remain in their folder and in order at all times • Photograph materials from one folder at a time • Volumes should not be laid flat—book cradles will be provided • Weight bags and snakes are available • Do not fold pages • Do not remove fasteners—ask for staff assistance • Do not remove items from sleeves, mats, etc. 		
Quantity limits	<ul style="list-style-type: none"> • No limits 	<ul style="list-style-type: none"> • No more than 50 pages or 20 percent (whichever is smaller) of any manuscript or book • No entire book, manuscript box, or collection, nor substantial portions of them • Please limit number of photographs to a reasonable amount • Photographs are meant to alleviate photocopying and supplement note taking, not to create a complete personal copy 	<ul style="list-style-type: none"> • Limit to established number of shots per day • Patron’s images may be reviewed during checkout to enforce quantity limit
Other limits	<ul style="list-style-type: none"> • Oversize items or anything that does not safely fit on table • Fragile or damaged items • No materials received on interlibrary loan, unless lending library permits • Only materials checked out to the patron using the camera • If not allowed, staff may digitize at standard fees • Repository reserves right to deny permission for any collection materials at its discretion 		
Copyright	<ul style="list-style-type: none"> • Copyright notice (and citation) in all shots (paper strip or transparency) • Digital copies are for personal research use only • Repository displays a copyright warning where digital camera requests are accepted and on digital camera policy forms 		
Paperwork (in addition to forms completed by all patrons)	<ul style="list-style-type: none"> • Camera use agreement included on registration form • Separate camera use agreement with copyright declaration (renewed annually/per visit/per day) 	<ul style="list-style-type: none"> • Patron provides list of collections (plus camera use agreement) 	<ul style="list-style-type: none"> • Patron provides list of each item (plus camera use agreement) • Written request before visit

Continued on next page

Table 1. Faceted Camera Use Grid—*Continued*

Facet	Shutter-bug	Exposed	Camera-shy
Fees	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Minimal fee (per visit, per shot) Fees for equipment supplied by repository 	<ul style="list-style-type: none"> Fee equals or exceeds cost of photocopies
Publication	<ul style="list-style-type: none"> Publication requires permission of the copyright holder 	<ul style="list-style-type: none"> Images for publication or distribution must be ordered through the library at set fees 	<ul style="list-style-type: none"> Images taken by patron may not be published in print or on Internet Publication requires written permission from repository
Citations	<ul style="list-style-type: none"> Patron is responsible for recording complete citations for each shot Subsequent orders for high-resolution images cannot be processed without complete citations Source repository template in all shots (paper strip or transparency, often included with copyright notice) 		
Other	<ul style="list-style-type: none"> Camera privileges can be revoked at any time if rules are not followed Provide tips on taking good images and creating complete citations In some cases, repository receives copies of all photographs 		

Many repositories charge for photocopies and this can form a basis for charging for digital camera use. When a repository establishes such fees, it should follow the guidelines noted in the *ALA/SAA Joint Statement on Access to Research Materials in Archives and Special Collections Libraries*. This document states in part, “A repository should facilitate access to collections by providing reasonably priced reproduction services that are administered consistently in accordance with legal authority, including copyright law, institutional access policy, and repository regulations. These services . . . should be clearly stated in a publicly accessible written policy.”⁶ Charging fees for reproductions of copyrighted material may place the institution at greater risk for copyright infringement. If the fees are determined to provide “direct or indirect commercial advantage” to the repository, its Section 108 exemptions are lost and maintaining a “fair use” defense becomes much harder.

A few repositories have introduced particularly unique facets to their digital camera policies, as noted in the “other” section of the grid. Some ask for copies of all digital images, with citations, and add them to the repository’s collection of digital assets. In these cases, the repository may wish to include a statement to that effect in the digital camera use agreement.

To assist researchers in obtaining usable photographs and citations, some repositories provide photography tips to their patrons.⁷

Conclusion

Digital cameras are the newest research tool, but they will not be the last. The next generation of archivists, librarians, and curators will view digital cameras the way we currently view photocopy machines, as essential components of our reference system. The issues of new technology are wrongly framed as a threat or a challenge for repositories to remain relevant.⁸ Rather, digital cameras should be considered from the perspective of our most fundamental goals—improving conditions for our collections materials, facilitating greater research economically and efficiently, and resolving competing demands for resources and maximizing the productivity of our staff. By adopting this mindset with our digital camera policies, we are poised to evaluate objectively the technology that will replace digital cameras in the next generation—or sooner.

Peter Hirtle, Jim Kuhn, Merrilee Proffitt, Jackie Dooley and Ricky Erway reviewed early versions of this report. The final document is better as a result of their comments, which are greatly appreciated.

Appendix A. Policies Reviewed

- American Antiquarian Society
- Arizona State University, Arizona Historical Foundation
- Brigham Young University, L. Tom Perry Special Collections
- California Historical Society
- Cornell University, Division of Rare and Manuscript Collections
- Dallas Theological Seminary
- Duke University, Rare Book, Manuscripts, and Special Collections Library
- Emory University, Pitts Theology Library Archives and Manuscripts Department
- Folger Shakespeare Library
- Frick Art Reference Library
- Getty Research Institute
- Harvard University, Houghton Library
- The Huntington Library, Arts Collections, and Botanical Gardens
- Indiana University Bloomington, Lilly Library
- Library of Congress, Prints & Photographs Division
- Library of Virginia
- Minnesota Historical Society
- The National Archives at College Park, Maryland
- The National Archives, United Kingdom
- New York Public Library, Manuscripts and Archives Division, Berg Collection, and Schomburg Center
- New York University, Fales Library
- The Newberry Library
- San Francisco Public Library, San Francisco History Center
- Stanford University, Hoover Institution Archives
- Stanford University, Special Collections and University Archives
- Syracuse University
- Tulane University, Louisiana Research Collection
- University of Alaska Anchorage & Alaska Pacific University Consortium Library, Archives & Special Collections
- University of California, Berkeley, Robbins Collection
- University of California, Irvine, Langson Library Special Collections
- University of California, Los Angeles, Charles E. Young Research Library Department of Special Collections
- University of Maryland at College Park, Special Collections
- University of Miami, Special Collections and University Archives
- University of Texas at Austin, The Harry Ransom Center
- University of Virginia, Albert and Shirley Small Special Collections Library

Appendix B.

Draft Modular Form: Camera Use in Reading Room

This sample form can be adapted by a repository by deleting irrelevant sections or inserting additional specific requirements. It is available as a standalone editable document on the OCLC Research Web site at <http://www.oclc.org/research/activities/photoscan/policy.doc>.

Camera Use Policy

Researchers may take photographs of collection materials for study purposes only, and as allowed by the library, based on the physical condition of the materials, copyright law, donor restrictions, and reading room rules.

I agree to the following conditions:

Repository procedures [delete or add as needed]

- I will obtain permission from library staff before taking any photographs.
- I will indicate all items to be photographed and show them to library staff for approval.
- I will provide a list of all [collections or items] photographed.
- I will take photographs at designated stations only.
- I will not photograph more than [50 pages or 20 percent of any book or manuscript (whichever is smaller), 100 pages per collection, other arbitrary limit].
- I will use my personal camera only—not portable scanners, [phone cameras, other].
- I will include in each photograph a strip provided by the library stating [repository name, copyright notice, and/or citation].
- It is my responsibility to keep accurate citations for all items photographed, which I will need when ordering publication-quality images or requesting permission to quote.

Materials handling rules [delete or add as needed]

- I will handle the materials with care and according to library rules.
- I will not bend, press down, or otherwise manipulate or rearrange materials to get a better photograph.
- I will keep materials flat on the table or in the stand/cradle provided.
- I will ask library staff for assistance with fastened items.
- I will not remove items from their plastic sleeves.
- I will not stand on chairs, tables, or other furniture.
- I will turn off the flash and sound on my camera.
- I will not use special lights [other prohibited equipment].
- I will not take photographs of the staff, reading room, or other researchers.
- I understand that the library reserves the right to deny permission to photograph collection materials at its discretion.

Copyright [delete or add as needed]

- I will use the photographs for my private study, scholarship and research only.
- I will not publish the photographs in print, post them on the Internet, nor exhibit them.
- I will not donate, sell, or provide the photographs to another repository.
- I will request publication-quality images from the library at its standard fees.
- It is my responsibility to obtain permission to publish from copyright owners.

Repository gets copies of all photographs taken [delete or add as needed]

- I will provide copies of all of my photographs and citations to the library, and I assign any intellectual property rights that I may possess in them to the repository.

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

I agree to indemnify and hold harmless [repository name], its agents and employees against all claims, demands, costs and expenses incurred by copyright infringement or any other legal or regulatory cause of action arising from the use of these photographs.

I have read and agree to abide by the terms and conditions above. I understand that my failure to follow them may result in the termination of my camera privileges.

Signature

Date

Name (Please print)

List of collections photographed. Please print clearly. [delete or add as needed]

1.	
2.	

List of items photographed. Please print clearly. [delete or add as needed]

Item	Collection	Box	Folder	Item description
1				
2				

Appendix C.

Members of the RLG Partnership Working Group on Streamlining Photography and Scanning

- Anne Blecksmith
Getty Research Institute
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Oregon State University
- Cristina Favretto
University of Miami
- Steven K. Galbraith
Folger Shakespeare Library
- Susan Hamson
Columbia University
- Sue Kunda
Oregon State University
- Jennie Levine Knies
University of Maryland
- Suzannah Massen
Frick Art Reference Library
- Dennis Meissner
Minnesota Historical Society
- Elizabeth McAllister
University of Maryland
- Lisa Miller
Hoover Institution Library and Archives, Stanford University
- Timothy Pyatt
Duke University
- Shannon Supple
Robbins Collections
University of California, Berkeley
- Francine Snyder
Solomon R. Guggenheim Museum
- Mattie Taormina
Stanford University
- Cherry Williams
Lilly Library, Indiana University
Bloomington
- Dennis Massie
OCLC Research
- Jennifer Schaffner
OCLC Research

Notes

- 1 “Limitations on exclusive rights: Reproduction by libraries and archives,” Section 108, Chapter 1, Title 17, United States Code, accessed February 1, 2010, at http://www.law.cornell.edu/uscode/17/usc_sec_17_00000108----000-.html.
- 2 For more on direct and indirect copyright infringement and its relevance for reading room practice, see: Peter B. Hirtle, Emily Hudson, and Andrew T. Kenyon, *Copyright and Cultural Institutions: Guidelines for Digitization for U.S. Libraries, Archives, and Museums* (Ithaca, NY: Cornell University Library, 2009): pp 78-83, accessed February 1, 2010, at <http://hdl.handle.net/1813/14142>.
- 3 “Limitations on exclusive rights: Reproduction by libraries and archives,” Section 108, Chapter 1, Title 17, United States Code, accessed February 1, 2010, at http://www.law.cornell.edu/uscode/17/usc_sec_17_00000108----000-.html.
- 4 Copyright Office and National Digital Information Infrastructure and Preservation Program of the Library of Congress, *Section 108 Study Group Report 91-92* (2008), accessed February 1, 2010, at <http://section108.gov/docs/Sec108StudyGroupReport.pdf>.
- 5 For a study of the effects of light on various materials, see: Terry T. Schaeffer’s *Effects of Light on Materials in Collections: Data on Photoflash and Related Sources* (Los Angeles, CA: Getty Publications 2001).
- 6 *ALA/SAA Joint Statement on Access to Research Materials in Archives and Special Collections Libraries*, adopted by the SAA Council on June 1, 2009, and the ACRL Board during the ALA Annual Conference, July 2009, accessed February 1, 2010, at <http://www.archivists.org/statements/ALA-SAA-Access09.asp> and <http://www.ala.org/ala/mgrps/divs/acrl/standards/jointstatement.cfm>.
- 7 Lyndon Baines Johnson Library and Museum, “Instructions for Use of Digital Cameras in the Reading Room,” May 20, 2004, accessed February 1, 2010, at http://www.lbjlib.utexas.edu/johnson/archives.hom/digital_camera_info.shtm, and Kirklin Bateman, Sheila Brennan, Douglas Mudd, and Paula Petrik, “Taking a Byte Out of the Archives: Making Technology Work for You,” *Perspectives*, 43,1 (January 2005), accessed February 1, 2010, at <http://www.historians.org/Perspectives/Issues/2005/0501/0501arc1.cfm>.
- 8 Richard Cox with the University of Pittsburgh archives students, “Machines in the Archives: Technology and the Coming Transformation of Archival Reference,” *First Monday*, 12,11 (November 2007), accessed February 1, 2010, at <http://www.uic.edu/htbin/cgiwrap/bin/ojs/index.php/fm/article/viewArticle/2029/1894>.