



# NEWS

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## Filmmakers and American University Project Release New Fair Use Best Practices Statement

### *Documentary Filmmakers' Statement of Best Practices in Fair Use*

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WASHINGTON, DC (Nov. 10, 2005) – Faced with a growing array of copyright problems, filmmakers and their national organizations have worked with scholars at American University to create a **Documentary Filmmakers' Statement of Best Practices in Fair Use**. The Statement, to be released November 18, describes a range of situations in which documentary filmmakers agree they have the right to quote copyrighted material without licensing it.

Authoring organizations, which hosted meetings of seasoned professionals among their members across the country to shape the terms of this document, include the Association of Independent Video and Filmmakers, Independent Feature Project, International Documentary Association, National Alliance for Media Arts and Culture, and Women in Film and Video (Washington, D.C., chapter).

The Statement has been endorsed by the University Film and Video Association, the Society for Cinema and Media Studies, Arts Engine, the Bay Area Video Coalition, the PBS documentary series P.O.V. and public television's Independent Television Service.

Fair use is the principle in intellectual property law assuring that people may quote copyrighted material when the social benefits are greater than the loss to the quoted copyright holder. Many filmmakers and broadcasters are unsure about what the law permits, often resulting in suppression of creativity and free expression.

The cost of this uncertainty is high, argue AU professors Pat Aufderheide, longtime critic and scholar of independent media, and Peter Jaszi, director of the Program on Intellectual Property and Public Media. They note, for example, that filmmakers cringe when someone in a *cinema vérité* documentary sings "Happy Birthday." Even though filmmakers should not have to pay for such use of this copyrighted song, they often are forced to by broadcasters avoiding perceived risk. Rights problems also jeopardize access to classics, such as the TV series on the history of civil rights, *Eyes on the Prize*—now out of circulation because rights to use historical footage have expired. Worst of all, the future is self-censored: young filmmakers steer clear of media criticism, historical and musical documentaries, for fear of sky-high rights clearance bills.

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The new Documentary Filmmakers' Statement of Best Practices in Fair Use will serve as an important corrective. To introduce it, a discussion with leading filmmakers, representatives of filmmaker organizations and legal scholars will take place at American University Washington College of Law, room 602, Friday November 18 from 2 – 3:30 p.m. For more background on fair use and additional details, visit <<http://www.centerforsocialmedia.org/fairuse.htm>>.

The project results from several years of research on the relationship between arts practices and intellectual property policies in a digital age. Aufderheide, a professor in AU's School of Communication, and Jaszi, a professor in the university's Washington College of Law, are co-principal investigators.

“This Statement lets filmmakers use both their rights and their creativity,” said Aufderheide. “Lack of understanding of when fair use is appropriate had become a crippling problem in documentary filmmaking.”

“For the first time, independent artists have come together to claim what the copyright law gives them – the right to make new uses of preexisting material that add value to the social and cultural record,” said Jaszi. “The power of fair use is often underestimated, but developments like this reflect its true importance as the balancing point in our copyright system.”

Among those joining the discussion will be Gordon Quinn, a leading public television producer (*Hoop Dreams*), David Van Taylor (*With God on Our Side*), Judy Tam, COO of the Independent Television Service, Academy-Award winning filmmaker Gerardine Wurzburg (*Educating Peter*), Katy Chevigny, CEO of Arts Engine and co-director of the NBC Dateline special *Deadline*, and award-winning documentarian Byron Hurt (*I Am a Man: Black Masculinity in America*).

The Center for Social Media at American University and the Program on Intellectual Property and the Public Interest (PIPP) at the Washington College of Law collaborated in coordinating the creation of the document. Funding for the project came from the Rockefeller Foundation and the John D. and Catherine T. MacArthur Foundation, with added support from Grantmakers in Film and Electronic Media.

Located in Washington, DC, American University is a leader in global education, enrolling a diverse student body from throughout the U.S. and nearly 150 countries and providing opportunities for academic excellence, public service, and internships in the nation's capital and around the world.

To arrange to attend the discussion, or for other media assistance, contact Clark Gregor, AU Media Relations, at 202-885-5935 or email [gregor@american.edu](mailto:gregor@american.edu).

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