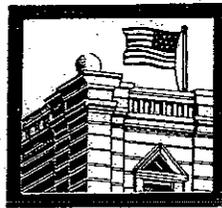
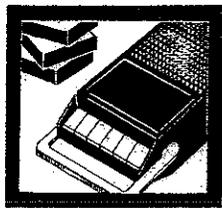


SAVING YESTERDAY TODAY FOR TOMORROW:
A GUIDE TO ORAL HISTORY
FOR THE BENCH AND BAR



By Carole Hicke



NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY

THE ONE-MINUTE GUIDE TO CONDUCTING AN ORAL HISTORY

- Ascertain willingness of narrator to participate.
- Research narrator's background; prepare and send outline.
- Schedule appointments.
- Obtain signed release agreement at first interview.
- Tape-record interviews.
- Get interviews transcribed.
- Review transcripts; then get narrator to review.
- Deposit corrected transcripts, tapes, and release agreement in the appropriate library, archives, or historical society.



THE ONE-MINUTE GUIDE TO ORAL HISTORY INTERVIEWING

- Ensure that equipment is functioning properly.
- Label tapes with names of interviewer, narrator, date, tape number.
- Take outline, photos, clippings to interview.
- Obtain signature on release agreement.
- Develop rapport but remain neutral.
- Ask who, what, where, when, why, how.
- Remain polite, but firmly in control.
- Listen carefully — and pursue new topics.
- Use silence.
- Ask for examples and anecdotes as illustrations.

SAVING YESTERDAY TODAY FOR TOMORROW:
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NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY

Portland and Pasadena

The Ninth Judicial Circuit Historical Society was established in 1985 in California, and today maintains offices in Pasadena and Portland. In concert with government and private agencies, the Society collects and preserves the material, written, and spoken history of the courts, their judges, and the attorneys practicing before them; makes such history, or information as to its access, available to researchers; and, through its publications (particularly its journal, *Western Legal History*), exhibits, and public programs, presents and interprets this history for members of the bench, the bar, and the public. In addition to directing its programs, the Society advises courts, bar associations, and legal and historical organizations on their own legal-history projects.

For further information about the Society, please telephone or write either of our offices.

Ninth Judicial Circuit Historical Society
125 South Grand Avenue
Pasadena, California 91105
(818) 405-7059

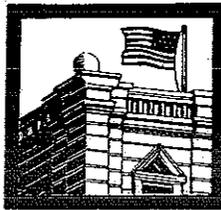
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PREFACE

The goal of oral history is to recapture the past and preserve it for the future. This guide makes recommendations for the pursuit of that goal. However, as every oral history is unique, each interviewer and narrator will find it necessary to adjust the procedures to the circumstances so as to recapture the past in the way most valuable to the future.

The information in this guide has been gleaned from a wide array of oral history programs. It is based on the knowledge and experiences of oral historians at the Federal Judicial Center in Washington, D.C.; the Oregon Historical Society; the Regional Oral History Office at the University of California, Berkeley; and the Ninth Judicial Circuit Historical Society.

The techniques recommended are employed by professionals, but they are not for professionals only. The techniques of oral history interviewing can be easily acquired; an interviewer simply needs to be a sympathetic, informed, and curious listener. Careful reading of the guide will not only help the interviewer and the program director master the procedures but will do much to ensure a product of historical significance.

The guide is in two parts: the first offers step-by-step procedures for conducting an oral history; the second deals with the problems of establishing a program and includes explanations about the discipline of oral history.

For the sake of convenience, the guide will adopt the convention of referring to interviewers as she/her and narrators as he/him.

The spoken word is history's most fragile evidence and its most evanescent witness. Through its recorded perspectives and insights, oral history illuminates, supplements, and adds new details to the material, the tangible record.

— Chet Orloff, Ninth Judicial Circuit Historical Society



ORAL HISTORIES: MORE THAN JUST THE FACTS

Oral history is a method of collecting historical information. In today's world of television and cellular telephones, it is a way of documenting events and insights that otherwise might not be recorded. Although personal memoirs were quite common before the twentieth century, fewer people today describe significant milestones and their surrounding circumstances in journals and diaries. In the twentieth century, many historians and scholars are turning to oral histories to provide the source materials they need to study the recent past.

In addition to being valued like any other historical sources as a record of the past, oral histories offer particular benefits to users. First, they capture details about events that are sparsely documented elsewhere. For example, when records have been destroyed by fire or accident, or simply by a move to new surroundings, oral histories can fill in the gaps left in the written record. In other cases, such as court administration and law-firm management, in which decisions were taken by spoken agreement, no written accounts exist. In their oral histories, those who actually participated can relate the particulars of a firm's growth and management, a court's method of dealing with overloaded dockets, a board's policy and practice.

On the other hand, sometimes the bulk of the written record is too great, as may be the case in litigation history and corporate law practice, so that the task of finding and sorting essential information becomes overwhelming. By pointing out crucial developments and watershed decisions, oral histories can aid the historian in further study. Such signposts can be valuable in a court or law firm with hundreds of cases, warehouses full of files, daily newsletters, and hourly memoranda.

Individual recollections and accounts of behind-the-scene activities can offer hitherto unknown information, reveal insights, indicate why and how things happened, suggest the characteristics of influential leadership, round out descriptions of figures in the public eye. In the legal field, interviewers can delve into the reasons judges handle cases in the way they do, the strategies of trial lawyers, the seemingly insignificant matters that make a case go one way or another.

Although researchers will want to corroborate the oral testimony with related written documents or other oral histories, the narrative itself has a special kind of truth – not necessarily in its reliability as evidence, but in the fact that it is the truth for the narrator.

More than merely reciting the facts, oral histories add a new dimension to our knowledge. They add the human perspective to the historical record.

THE ORAL HISTORY INTERVIEW: PROCEDURES AND TECHNIQUES

Oral history can be practiced by anyone armed with nothing more than a tape recorder, the ability to listen, and a genuine sense of historical curiosity. Spontaneity, depth, and critical inquiry should be the interviewer's goals.

Spontaneity arises in the question-and-answer mode of the interview. As the interviewer asks for recollections, the narrator responds; the interviewer continues to probe for more detail and more explanation, thus going beyond the "facts" and eliciting details, anecdotes, and views that add up to a fresh approach to a subject. The end product should add vitality, richness, and color to the record.

The second goal — depth — distinguishes oral history from present-oriented journalism. Oral history, unlike media interviews, is intended as a source for future users. Since we do not know precisely what such users will want to know, the oral history interview ideally casts a wide net to obtain information on a variety of subjects. However, planning for an oral history is always dependent upon the time the narrator can devote to the process. If he is retired, or at least cutting back the number of his professional commitments, the procedures listed below should be developed fully. If he is at the peak of his career, the steps will necessarily be shortened.

Critical inquiry is the interviewer's third goal. Scholars who use oral histories want candid, substantial recollections that reflect historical accuracy as seen by the narrator. The interviewer therefore has a responsibility to ask knowledgeable questions and probe the narrator's memory. For this reason we strongly recommend research before the interview and review of the transcript afterward.

Interviewers and narrators will find that recording twentieth-century history is an enjoyable and rewarding experience. Each oral history interview may reflect only a fragment of life, but, taken together, the collected body of oral histories will contribute significantly to historical knowledge in the United States.

Propose the oral history to the intended narrator, usually by letter. Follow with a telephone call. Set a time and place for the introductory meeting.

Begin research now and continue throughout the interviewing process. Ask the narrator for biographical information; search published documents; talk with the narrator's colleagues and friends. Prepare a preliminary topical outline. Unless the goal is to focus on a specific event, person, or era, an oral history should be both broad and deep, providing a full review of the narrator's life. (See Preliminary Outline, Appendix A.)

Introductory meeting: establish rapport; explain fully all steps in the oral history process; request information; sign the release agreement; invite the narrator to join in planning interviews; set up an interview schedule.

Establishing rapport is absolutely crucial to the success of the interview. The narrator should feel relaxed, confident in the interviewer's attention, and comfortable in his surroundings.

Give the narrator a complete explanation of the historical importance of the interviews, emphasizing the value of detailed, firsthand experience. Outline the various steps in the procedure, making sure he knows the interviews will be tape-recorded, transcribed, and — after review and correction — made available to the public. Be certain he understands his rights regarding review of the transcript, as well as his obligations as to time and effort. Assure him that both you and he will find the process stimulating and enjoyable.

Explain the release agreement and options carefully, then ask the narrator to sign. (See example, Appendix B.) The interviewer will already have signed. If the narrator asks to keep the agreement temporarily, be sure to get it signed at your next meeting. Leave a copy with him and deposit one with the final copy of the transcript. The interviewer keeps a third copy.

Plan the interviews. Ask the narrator to look over your preliminary outline and suggest additional topics. Have him complete the biographical sketch. (See example, Appendix C.) Request permission to look at whatever papers, files, photographs, clippings, scrapbooks and memorabilia he may have. Take care not to get into interview substance at this time.

Schedule the interviews, or at least the first two. A week apart is good, if that will leave time for research and preparation for the following interview. Otherwise, a two- or three-week interval is better. After more than three weeks, the interviewer will need to review previous sessions in order to avoid repetition.

Plan for sessions of no more than two hours; that is about the stamina limit for one interview.

Prepare for interviews: finish your research and outline, and obtain equipment.

Complete the basic research and arrange the information chronologically. Use library on-line data bases to search for opinions and other information. Familiarize yourself with the political, social, and economic landscape of the relevant era. Check the appropriate law-firm and court records if available.

Prepare a detailed outline for each interview session. (See examples of outlines for interviewing lawyers and judges, Appendices D and E. These will be divided into interview sessions.) A useful outline will be generally chronological, with topics developed within each chronological step. Send the list of topics for the upcoming session to the narrator two or three days beforehand. If, after a session or two, you observe that he ignores the outline, send only a brief paragraph reviewing what you have covered in the previous interview and what you want to talk about next.

The interviewer should review what was covered in the previous session by listening to the tapes or reading the transcript.

Equipment: obtain a cassette recorder with an external microphone, or — better still — a clip-on mike for the narrator and a second one for the interviewer. Crucial words and phrases can be lost because of extraneous noises or a narrator's voice that drops at the end of a sentence. Use only 60-minute tapes, as they can best withstand the wear and tear of taping and transcribing.

The interview. Some dos and don'ts listed below will help the interviewer conduct a successful interview.

Find a comfortable setting that is quiet and secure from interruption. Have at least one tape labeled and in the recorder.

Begin with a statement of the narrator's name, the interviewer's name, the date, and the place. This is important for identifying the final document.

Ask about birth and early childhood. Historians and other scholars using the transcript will need to know when the narrator lived and something about his background in order to evaluate the information. Unless time is at a premium or the interview is to focus on a single topic, you can start with: "When and where were you born?" This helps the narrator to begin thinking about the past; the interview can then proceed smoothly and logically from his family and childhood to his career.

Ask questions that are brief, one at a time, and open-ended. Rather than asking a question that requires only yes or no for an answer, elicit full descriptions with: "Tell me about...[the next topic on the outline]." Key words to use in addition to "tell me" are "explain," "elaborate," "discuss," "compare," "how did you feel about..."

A good question for introducing a topic has two parts: a sentence describing the topic of discussion, followed by the question. For example, "I know that you entered law school at an unusually early age. Can you tell me how that came about?"

The basic questions to be answered in the oral history are: who? what? where? when? why? how? The interviewer should be sure to solicit insights, attitudes, feelings, and reactions. As a rule of thumb, proceed from the general to the specific.

An interview is a two-way dialogue, but lopsided. The interviewer should remain neutral and in the background. The whole point is to obtain the narrator's recollections; the interviewer confines herself to questioning and probing.

Listen carefully and ask for follow-up explanations. The narrator is likely to bring up topics not on the outline. If these are important, make sure they are fully developed: "Could you please elaborate on that point?"

Watch for consistency of information and for conflicts with other sources of evidence. If you want to challenge, do it sensitively, possibly from another angle or from the viewpoint of a third (anonymous) party: "People have told me that..."

Because even narrators who are willing to talk openly about their lives rarely do so with the necessary detail, the interviewer must ensure that the narrator documents the subject fully. Furthermore, questioning and eliciting more details conveys a sense of purpose and reassures the narrator that the interview is worthwhile.

For the interviewer to leave the narrator to tell what he will is to abdicate her responsibility. Memory often needs to be made to work, and one of the major advantages of the two-way exchange is that questions stimulate detailed recall and get beyond the surface generalities.

Ask for examples and anecdotes. Historians know these can be important to illustrate a thesis. Even what appear to be simply amusing stories often illuminate an idea satisfactorily.

Keep a running list of correctly spelled names and places for the transcriber. This will make the transcribing easier and will save time during the review. Include any unusual or foreign words.

Avoid interrupting. When questions arise, jot down a note and wait until the narrator comes to a stopping point to ask them.

Use silence. Remember, the narrator is often going a long way back in his recollections; don't rush to fill up a silence when he is thinking. Waiting a short time may give him the opportunity to make a valuable addition.

Save sensitive questions for later. After you have established a good working relationship, you can bring up difficult topics. You can do this in several ways: quote a newspaper or other source that disagrees with the narrator, then ask for his opinion. Ask what his colleagues thought about the subject. Or ask the narrator if he would like to put his side of a controversial question on the record.

Elicit the real story whenever possible. Well-known people who have been frequently interviewed by the media sometimes offer a pre-shaped image of themselves, a "pat" story that they project to one and all. They may eventually begin to believe it themselves. Try to get behind this with respectful but firm probing, attempting different approaches, asking for information in different ways. Again, quoting an outside source can be helpful; background research to establish objectivity is essential.

Balance the goals of the project with the perspectives of the narrator. Maintain sensitivity to diverse social and cultural experiences and to race, gender, class, ethnicity, age, religion, and sexual orientation factors.

Make sure that all tapes are labeled after recording. It is also a good idea to punch out the tabs to prevent erasure.

Videotaping. Since researchers are finding more uses for visual records, you may want to consider videotaping part or all of your interview. A short session of 15 to 30 minutes could be taped in order to provide a picture of the narrator and some sense of his physical state, movements, and expressions. This could take place after the oral part of the interview, with the narrator repeating an important segment of the story or demonstrating some process he has talked about. The videotape can also capture some of the speaker's environment and portray charts, graphs, and photographs.

On the other hand, the entire session could be videotaped either by a professional crew or by the interviewer herself. However, if the interviewer does the taping with a camcorder on a tripod, the sound quality will suffer unless external microphones are used. Backup audio taping ensures that problems with the videotaping will not result in a lost interview.

The signed release agreement should cover videotaping in order to ensure availability of the tape.

Transcribing and review. (See Transcribing Procedures, Appendix F.) Remember that during the transcribing and review procedures, the interview remains confidential; the release agreement becomes effective only after final processing.

Review of the transcript by both interviewer and narrator ensures that it reflects the words of the speakers and adds information helpful to researchers. The first mention of any name should be complete. If the last name only is spoken, the first name and title — if significant — are added in brackets: “[Justice William O.] Douglas.” Abbreviations should be spelled out in brackets: “FBI [Federal Bureau of Investigation].” Dates and case citations should be added or verified whenever possible, and obscure references can be clarified in footnotes.

Rules for punctuation and grammar may be found in *The Chicago Manual of Style*, Thirteenth Edition.

Normally the interviewer reviews the transcript first, then sends it to the narrator. Since this is the point at which many oral histories get bogged down, it is wise to request the return of the transcript in one or two months, with the proviso that if it is not returned, it will be deposited without the narrator’s review.

Deposit tapes, corrected transcript, and release agreement in a public archive or library.

CHECK LIST FOR VOLUNTEER INTERVIEWERS

Name of narrator: _____

Address: _____

Name of interviewer: _____

DATE	TASK
_____	Letter of invitation sent to narrator
_____	Response received
_____	Narrator contacted
_____	Preliminary meeting held
_____	Biographical form completed
_____	Research completed; outline sent to narrator
_____	Interviews scheduled; list dates and tape numbers
_____	Interview 1
_____	Interview 2
_____	Interview 3 and others
_____	Release agreement signed (note restrictions)
_____	Transcription completed
_____	Transcript reviewed by interviewer and returned
_____	Transcript reviewed by narrator
_____	Final transcript completed
_____	Tapes, transcript, and agreement deposited

THE ORAL HISTORY PROGRAM: ORGANIZING A SERIES OF ORAL HISTORIES

Goals

Begin by setting goals for the program, some short-term, some long-term. Evaluate the amount of time, energy, and money that can be devoted to collecting oral histories; consider whether you want professional oral historians, or a volunteer interviewing staff who will need some training. How much help can you expect from experts in the field? How will the interviews be treated once the interviewing is completed — will they be transcribed? Reviewed and corrected? Final typed, indexed, and bound? Deposited in draft form in some archives? Which archives? How will the oral histories be made available to the public?

Not all of these questions need to be answered immediately, but some thought should be given to the probability of their arising.

Of major importance — but occasionally neglected — is determining that the subject of your program's study has not already been fully documented. You will want to estimate the importance of the information your program can add to the historical record.

Advisory Board

An advisory board can be helpful on several fronts. Board members can be influential in raising funds, if that is necessary. They can help select interviewers and narrators. Particularly in choosing narrators, it is wise for some outside body to be responsible for selecting and establishing priorities; interviewers must work closely with the narrators and should not be entirely answerable for such decisions.

Local Help: Historical Societies and Oral History Associations

Most states and counties have local historical societies that can be helpful. Historical societies sometimes have their own oral history programs, which might be coordinated with yours. In addition, they will have records, old photographs, clippings, and documents that will prove valuable for background research.

Regional oral history associations and local historical societies can be good resources. Members can offer technical advice and information about other programs, as well as moral support and a chance to talk about your projects. Names and addresses of the officers of these organizations as listed in a library may be out of date, as some of the officers change yearly, but those persons are probably long-time members who can pass on to you the necessary information.

Responsibilities: Volunteers or Professionals?

Time and money are the basic requirements of any oral history program. How you administer the program depends on how these two resources are balanced.

The procedures to be carried out for a successful oral history program are outlined in this guide. You and your committee must decide who will be responsible for each step. Here are several alternatives.

1. If money is the scarcer resource, you will want to depend mainly on volunteers. You will organize the program, monitor the individual projects within it, and assume responsibility for the final product; or you will need to train someone to do this. You might ask a professional oral historian to serve on your advisory board.

The interviewers will want to learn something about standard oral history techniques. This guide offers enough information to make a beginning; experience will be an excellent teacher along the way. If you want more help, historical societies and oral history associations can help find someone to train your volunteers, or perhaps a one- or two-day workshop is offered from time to time in your locality. The bibliography at the end of the guide suggests further reading.

Transcribers will need a transcribing machine, and patience. Transcribing oral histories differs somewhat from other methods, particularly as to format and content. (See Transcribing Procedures in Appendix E.) Once standards for format and style are established, they should be followed consistently.

2. If time is the scarcer resource, you may want to hire professional historians and transcribers. This is a less time-consuming but more costly approach.

3. Another possibility is to use some combination of professionals and volunteers. You could have the interviewing done by volunteers and the transcribing done professionally, or you could have the interviewing done professionally and the transcribing done by volunteers. Or you might hire a professional oral historian to coordinate the program, train volunteer interviewers, supervise the transcribing, and be available to answer questions and monitor the program as it moves along.

Selecting Narrators

Begin with a list drawn up by you and your advisory board. Add to the list by contacting others knowledgeable about the subject area and by asking the first narrators for suggestions.

Keeping in mind the goals of your program, you can select narrators on the basis of the following criteria: the significance of their contributions to the history you want to document; their overall knowledge — both chronological and geographical — of the community, business, or institution you are studying; their ages, health, and memories. In addition, try for a balanced mix of viewpoints: men and women, insiders and outsiders, old-timers and newcomers, members of various ethnic groups.

All other things being equal, it is best to start with one or two persons who have firsthand knowledge of the subject over a long period of time. This will give you good background information, help to pinpoint other people to be interviewed, and enable you to establish priorities.

Next in importance are those who have played vital roles, who have been part of the decision making, who have insights into the behind-the-scenes activities. But don't neglect, either, people who may not be insiders but may have a wealth of knowledge gained as observers — a clerk of the court, for instance, or the longtime secretary to the head of the firm.

Then consider the age and health of the major participants. Run, don't walk, to get the oral history of anyone in failing health, if he is still articulate and has a good memory. Often the above selection criteria will dictate the choice of the oldest narrators first, as they are likely to have the most history to tell.

A fourth consideration is whether the narrator has the time and energy to devote to giving an oral history and reviewing the transcript. This probably cannot be determined until he has been contacted.

Selecting Interviewers

If your program depends on volunteer interviewers, selecting them is the next step. It is helpful to find interviewers who have some knowledge of the subject and even of the narrator. You could pair law clerks with their judges, for instance, or practicing lawyers with retired members of the bar. Most important is that the interviewer have an interest in the subject and the time to devote to research and interviewing.

Interviewing

It is essential that volunteer interviewers understand the difference between oral history and other kinds of interviewing; that is, oral history interviewing is not intended to have an immediate impact but is for use by future scholars.

The interviews can be divided into three general kinds:

1. *Biographical*: the object is to collect as much information about the narrator as possible. This should be broad in scope, covering the narrator's personal and professional life: upbringing and education, career course, important events, vocational and avocational activities, and relationships.
2. *Topical*: the object is to study one topic or area by interviewing many people about the same subject or group. Interviews will focus on the topic from various aspects of chronology and geography.
3. *Event-oriented*: the object is to study one historical event by interviewing many people about it. Here the procedure is to get a variety of perspectives on the main event, along with information about the participants and insight into the behind-the-scenes activities.

An oral history program can encompass all of these or some combination of them if divided into several projects.

In general, one interviewer should interview one narrator. More than one in either role complicates matters, although it may become necessary or desirable.

Transcribing the Interview

Transcribing the tape-recorded sessions demands a knowledge of oral history requirements, just as interviewing does. Transcribers who are unused to oral history transcribing tend to go to extremes: either they transcribe every sound, resulting in a sentence like "Oh, well, uh, I uh — can't remember if — no, maybe we, hmmm," or they "clean up" the transcription to the point of changing the meaning. Much depends upon the goals of your program.

Guidelines for transcribing should be clearly established for the program. If the object is to produce a final product to be read and used primarily for content, then clarity and ease of understanding become goals, and transcribers should use somewhat more formal language — for example, transcribing "yeah" and "uh huh" as "yes." False starts without content can be eliminated. If there is any doubt, the transcriber should type what is said and leave the decision to be made in the review process.

On the other hand, if the program needs to capture the original flavor of a speaker so that users may study the narrator's language or personal speech, the transcriber should type the truest possible rendition, including all contractions and ungrammatical phrases but still excluding crutch words. Such a transcript is reviewed for spelling and punctuation only.

Transcribers should remember that they are working with material that is confidential until the transcript is reviewed and released.

Release Agreements

In order to make information from the oral history available to the public, the interviewer and the narrator must sign an agreement to convey copyright to the agency conducting the program, waiving their claims to the material. This need not preclude use of the material by the participants, and it can contain other stipulations, such as restricting the interview or parts of it for a specified length of time. Sample release clauses are attached (see Appendix B). Restricted tapes and transcripts must be clearly labeled as such.

Reviewing the Transcript

It is clearly desirable that the transcript be reviewed by both the interviewer and the narrator. The interviewer should check the transcript carefully for transcribing errors, clarity, and consistency of style, and should add first names, dates, and correct spelling wherever possible. Information added by the interviewer should be enclosed in brackets to indicate that it is not on the tape. False starts that have no content can be eliminated, if they have been transcribed.

Indexing

Ideally, the corrected typescript should include a table of contents, chapter headings, and an index. If indexing the transcript is too expensive or time-consuming, indexing the tapes should be considered. Using the tape counter, topics can be listed as they appear, so that they may be retrieved on the tape. A discursive table of contents without chapter headings in the text might simply list topics as they appear on the indicated tape sides.

After indexing of individual transcripts is completed, consider developing a cumulative index for the entire program. If this can be done while the work is in progress, it will be helpful in researching future interviews.

If the tapes and transcripts are to be deposited in a library, data about the oral histories may be entered into a library on-line data system, such as RLIN.

Final Production

Minimum requirements for the final version of the transcript should be: a title page with the names of narrator and interviewer, the subject, the dates of interview, and all restrictions; a copy of the release agreement indicating copyright information and where to obtain permission to quote; the transcript of the interview. Possible additions are: photographs, a table of contents, an index, a preface describing the project; an introduction by a colleague, and an interview history by the interviewer; a list of other oral histories in the series; a biographical summary of the narrator's life; supplementary appendix material; and information about the interviewer.

Illustrative material, such as photographs and clippings and appendices, adds considerable interest to the transcript. A preface or an interview history will tell the researcher more about the circumstances surrounding the oral history narration. If the volume is part of a series, a series introduction will describe the project. If it is a personal biography, an introduction written by a close colleague of the narrator will add a perspective not available in the transcript itself.

Depositing Tapes and Transcripts

Regardless of which procedures are eliminated, the last step in collecting oral histories is depositing the tapes and transcripts in a place where they are available to the public.

For the benefit of researchers, the completed oral history should be listed together with others in a library database and in appropriate collections registers. The National Union Catalog of Manuscript Collections includes oral histories and is available in libraries throughout the United States. If the oral history concerns the legal history of the West, notify the Ninth Judicial Circuit Historical Society, 620 S.W. Main Street, Portland, Oregon, 97205. It will be included in the Society's list of Law-Related Oral History Resources in Western Collections. If the narrator is a federal judge or discusses federal court history, notify the Oral History Register, Federal Judicial History Program, 1520 H Street, N.W., Washington, D.C. 20005.

APPENDIX A

PRELIMINARY GENERAL OUTLINE FOR ORAL HISTORY

(to be submitted to narrator)

Full name, date and place of birth

Background

- Family
- Childhood
- Education
- Community
- Law School
- Military Service

Early Work Experiences

- First job
- Responsibilities
- Colleagues

Continuing Legal Career

- Major cases and matters
- Evolution of your practice
- Changes in the law
- Involvement in local, state, and national politics
- Recollections of judges and lawyers
- Other colleagues
- Technological innovations

Judicial work (if appropriate)

- How appointed to the bench
- Judicial philosophy/public policy
- Major cases
- Evolution of and changes in the law
- Changes in procedures
- Colleagues: judges, lawyers
- Judicial administration

Community activities

- Professional, economic, and social atmosphere of local community
- Bar association involvement; other professional associations
- Impact of local and national political and economic events
- Retirement activities
- Overview of your career

APPENDIX B

NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY

620 S.W. Main Street, Room 703
Portland, Oregon 97205

ORAL HISTORY AGREEMENT

I, _____, do hereby grant to the Ninth Judicial Circuit Historical Society (hereinafter the Society) legal title and all literary rights including copyright to all material related to my oral history memoir listed below. It is agreed that access to the tape recording(s) and edited manuscript shall be available to qualified researchers under Society use policy. I authorize the Society to edit, publish, and license the use of my oral history memoir in any manner that the Society considers appropriate, and I waive claim to royalties that may be received by the Society as a consequence thereof. I impose the exceptions to this agreement that I have initialed on the reverse side. This gift does not preclude any use that I may want to make of the information in the recordings myself.

This agreement may be revised or amended by mutual consent of the parties undersigned.

Description of material:

Tape recording(s) and transcript resulting from oral history sessions beginning on

Donor _____

Place _____

Date _____

Interviewer _____

Date _____

Society Executive Director _____

Date _____

EXCEPTIONS TO ORAL HISTORY AGREEMENT

Please initial:

_____ The entire tape and transcript shall be closed to all users until _____
date

_____ The parties hereto agree that the entire tape and transcript shall not be made available to anyone other than the parties hereto until _____
date

_____ The interview tape and transcript may not be made available to anyone without my express permission until _____ after which they may be
date made available to general research.

_____ The parties hereto agree that the entire tape and transcript shall not be made available to anyone other than the parties hereto until _____ except
date with my express permission.

_____ The following page(s) _____ and the tape relating thereto shall be closed to all users until _____ except with my express permission.
date

_____ It is agreed that the Society will not authorize publication of the transcript or any substantial part thereof during my lifetime without my permission, but that the Society may authorize researchers and others to make brief quotations therefrom without my permission.

_____ It is agreed that the Society will not authorize publication by others of the transcript or any part thereof during my lifetime without my express permission.

_____ I reserve all literary property rights to the interview until _____, at which time these literary property rights shall vest in the Ninth Judicial Circuit Historical Society.

_____ Other:

APPENDIX C

BIOGRAPHICAL SKETCH

Subject's Full Name _____

Address _____

Telephone: Office _____ Home _____

Parents: *(Names, birth dates, occupations)* _____

Father _____

Mother _____

Subject's Date and Place of Birth _____

Primary and Secondary Education *(Where obtained, dates)* _____

Higher Education _____

Profession *(Jobs, dates began/ended, where worked)* _____

Military/Government Service *(Dates and Places)* _____

Civic and Community Activities and Honors _____

Spouse: *(Name, occupation)* _____

Children: *(Names, dates of birth)* _____

Books and Articles Written by Subject _____

APPENDIX D

OUTLINE OF TOPICS FOR INTERVIEWING LAWYERS

Full name

Date and place (city, county, state) of birth

I. BACKGROUND

A. *Family*

Grandparents

Parents: names, place and dates of birth; business, political, and community activities and interests

Siblings

Most influential relatives

B. *Childhood*

Community: home, friends, recreation, travel, hobbies, reading

Grammar school and high school: teachers, classes, special events

Part-time work experiences

C. *College*

How chosen

Influential teachers and courses; study habits

Friends

Extracurricular activities; part-time work

D. *Community*

Military or social service

Impact of major social, economic, and political events: wars, depressions, civil disturbances

E. *Law School*

How your interest in the law began

Choice of law school

Professors, courses

Friends, activities, work

Assessment of value of law school

2. CAREER AS LAWYER (include anecdotes and examples)

A. *Early experience*

Looking for a job

Bar examination

Beginning salary; comparison with other professions

First clients, cases

Daily routine: working hours, lunch, office location

Description of surrounding community

B. *Evolving career*

Practice specialty: how developed, changes
Professional and political outlook and affiliations
Work habits
Local bar and bench
Strong influences on early career: people, events; influence of state bar association

Other lawyers, business people, and colleagues with whom you worked
Professional, economic, and social atmosphere of the local community
Your involvement in local, state, national politics
Impact of major events: World War II, Korean War, Vietnam War, civil rights movement
Impact of legislation on your specialty
Changes in office technology

C. *If private practitioner*

Beginning practice
Major cases and clients
Special challenges of private practice
Financial and technological aspects
Growth: how business comes in

D. *If member of law firm*

First day at the office
Responsibilities as an associate
Partners and other associates
Becoming a partner
Major firm clients, matters, and cases
Changes in law-firm administration: leadership and decision making;
recruiting and hiring; committee system
Newly developing practice areas
Recollections of judges and other lawyers
Trial strategies; business practice and counseling strategies
How corporate culture is passed down
Retirement and pension plans
Business development and future planning; geographical expansion

E. *If general counsel of a corporation*

How appointed
Responsibilities
Firm services/product
Major matters and cases
Relationship with senior management
Counseling; supervisory responsibilities

3. COMMUNITY ACTIVITIES AND OVERVIEW

Professional and other organizations; membership in community groups
Impact of career as lawyer on family life and social activities
Rewards and advantages of career; hardships and pitfalls
Major contributions to society and legal history
Role of today's lawyers and law firms

APPENDIX E

OUTLINE OF TOPICS FOR INTERVIEWING JUDGES

Full name

Date and place (city, county, state) of birth

I. BACKGROUND

A. *Family*

Grandparents

Parents: names; place and dates of birth; business, political, and community activities and interests

Siblings

Most influential relatives

B. *Childhood*

Community: home, friends, recreation, travel, hobbies, reading

Grammar school and high school: teachers, classes, special events

Part-time work experiences

C. *College*

How chosen

Influential teachers and courses; study habits

Friends

Extracurricular activities; part-time work

D. *Community*

Military or social service

Impact of major social, economic, and political events: wars, depressions, civil disturbances

E. *Law School*

How your interest in the law began

Choice of law school

Professors, courses

Friends, activities, work

Assessment of value of law school

2. CAREER AS LAWYER (see also outline for interviewing lawyers)

A. *Early experience*

Looking for a job

Bar examination

Beginning salary; comparison with other professions

First clients, cases

Daily routine: working hours, lunch, office location

Description of surrounding community

B. *Evolving career*

Practice specialty: how developed, changes
Professional and political outlook and affiliations
Work habits
Local bar and bench
Influence of state bar association
Strong influences on early career: people, events
Other lawyers, business people, and colleagues with whom you worked
Professional, economic, and social atmosphere of the local community
Involvement in local, state, national politics
Impact of major events: World War II, Korean War, Vietnam War, civil rights movement
Impact of legislation on your specialty
Changes in office technology

3. CAREER AS JUDGE (include anecdotes and examples as illustrations)

A. *Transition to the bench*

Appointment
Political and professional factors in appointment; changes in selection process over the years
Change in income
Notification, confirmation hearing
How the process works: your evaluation

B. *Early experiences*

First day or week on the job
First judicial experiences
Associations with other judges and lawyers
A typical day

C. *Judicial techniques*

Methods of preparation for hearing, trial
Your approach to trying cases, making decisions
Working with colleagues
Significant cases: precedent-making, most interesting, most challenging, most typical
Characteristics of a good trial
Changes in rules, such as discovery; replacing "trial by ambush" (before Federal Rules) with
"trial by avalanche"
Changes in demands on your court since appointment; court response to overloaded dockets
Discussion of writing briefs and opinions; significant opinions
Leadership qualities of judges
Competence of juries to understand complex law and the judge's directions
Settlement of cases: procedures, changes
Changes in society's attitude toward law: more litigation? attitudes toward lawyers
and judiciary
Increasing tendency toward raising constitutional issues
Frivolous case filings
Changes in types of cases: antitrust, personal injury, intellectual property
Changes in jury selection
Scope of case management
Qualities of a good judge, lawyer, court administrator

[for this section, choose D, E, or F as appropriate]

D. *Judicial techniques: federal district court*

Description of the job: differences between work of district court and appeals court judges
Your relationship with U.S. Attorney's Office, Public Defender, Circuit Executive
How your district compares with others (case load, innovative procedures, etc.)

E. *Judicial techniques: federal appeals court*

Description of the job: differences between work of appeals court and district, supreme courts
Your relationship with Circuit Executive, Judicial Council, other circuit administrative elements
Circuit courts: intermediary between national and local courts or an arm of national government?
Intercircuit assignments
Role of circuit courts in legal innovation
How you make decisions
En banc cases
Impact of dissent at circuit court level
How leadership is exerted: existence of factions on circuit court
Supervision of district courts
What makes for a good appellate hearing
Impact of reversal by Supreme Court

F. *Judicial techniques: state courts*

Appointment or election
Description of job, lower or appellate court; how the work differs from that of other state courts
How court rules are made and why they differ
Court administration
Relationships with the community, legislature, other courts
Calendaring
Problems and challenges of state courts
Use of court commissioners
Scope of case management

4. OTHER ASPECTS OF ADMINISTRATION AND PUBLIC POLICY

A. *Colleagues and legal associates*

Unofficial rules of the game
Freshman period for new appointees?
Reaching agreement within the court: collegial deliberation, responsibility of opinion writer as broker
Outstanding lawyers: what are required qualities?
Post-trial relationships with litigants
Law clerks: how you have worked with them, necessary qualities, some who were outstanding
Qualities of a good judge

B. *Judicial administration*

Administration techniques for the court: most effective
Development of streamlining procedures
Office of chief judge: advantages and prerogatives; disadvantages and challenges
Visiting judgeships: usefulness
Qualities of a good administrator; examples
Technological changes and their impact
Increasing numbers of judicial conferences and councils: advantages and disadvantages
Alternative dispute resolution: arbitration, mediation, special masters

C. *Public policy/judicial philosophy*

How your judicial philosophy has evolved over the years
Political and social philosophy
Federal legislation: its impact and implications on your court
Judicial activism
Major challenges facing your court and the judicial system today
Importance of informal contacts — judicial councils, bar meetings, social events — for development of federal law
Reflections on the American Bar Association
Relationship between punishment and reform
Trend toward indeterminate sentencing
Extent of your court's influence on public policy
Role of judiciary toward legislation: applying the statute or interpreting it?
Resolving a conflict between law and conscience
Effects of new emphasis on ethics in law practice
Regional differences in judiciary and law practice throughout United States
Impact of plural equality ("everyone has right not to suffer legal handicap because of immutable characteristics")
Significance of legal-aid groups

5. COMMUNITY ACTIVITIES AND CAREER OVERVIEW

Professional and other organizations
Impact of a judicial career on family life and social activities
Rewards and advantages of your career
Hardships and pitfalls
Your major contributions to society and legal history
Role of today's judiciary

APPENDIX F

TRANSCRIBING PROCEDURES FOR ORAL HISTORIES

Double space; provide two copies of transcript.

Begin with heading that includes names and dates; note the changes in tape sides; speakers' names are at left, with text margins indented under longest name.

EXAMPLE:

Interview with Judge James F. Jameson
Date of interview: May 1, 1991
Interviewer: Carole Hicke

Begin Tape 1, Side A

Hicke: Let's start with when and where you were born.

Jameson: I was born in.....[text continues inside the margins formed by leaving three spaces after the longest name].....

End Tape 1, Side A

Begin Tape 1, Side B

Jameson: So I knew that I wanted to be a lawyer, and I took all the courses I could find that would prepare me.....

Paragraph often when one speaker continues for more than five or six lines.

Transcribe everything you hear, with the following exceptions: Omit crutch words such as "you know" and irrelevant phrases such as "oh, really" or "my goodness." Transcribe most contractions, but change "yeah" and "uh-huh" to "yes." Don't attempt to edit sentences for clarity. If you can't understand a word, type [inaudible] in brackets.

Follow the interviewer's notes, especially for spelling of proper names.

Add stage directions *occasionally*, putting them in brackets, such as [laughter] or [hands over papers].

sample title page of transcript

NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY
620 S.W. Main Street / Portland, Oregon 97205 / (503) 326-3458

WESTERN LEGAL HISTORY ORAL HISTORY PROGRAM

Hon. James R. Browning

THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT:
THIRTY YEARS ON THE BENCH, 1961-1991

An Interview Conducted by
Carole Hicke
1991

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