ORAL HISTORY ASSOCIATION NEWSLETTER

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Oakland OHA program largest ever

By Horacio N. Roque Ramirez and Norma Smith, Program Committee Co-Chairs

Welcome to Oakland!
On behalf of the 2007 OHA Conference Program Committee, we are excited to give you this final update and invitation before we all gather in Oakland, Calif., for the 41st meeting of the Oral History Association on Oct. 24-28.

Under the theme of "The Revolutionary Ideal: Transforming Communities through Oral History," our meeting will offer the biggest program ever, with more than 100 sessions during five days of workshops, panels, videos and films, plenary sessions, receptions, keynote addresses and committee meetings.

We have an unprecedented number of sessions sponsored by the Committee on Diversity and the International Committee, including a first ever Spanish-language informal dialogue on oral history. In addition, several sites and institutions across the country have come together for another first, a "Connecting Oral History Educators through Video Conferencing" on Saturday morning.

Oakland will also initiate what is bound to be an important tradition in our meetings, a "Time Passages" session when we remember our founders and pioneers in the OHA and oral history field who have passed on.

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Lake Merritt Skyline—courtesy of the Oakland Convention & Visitors Bureau. Photo by Barry Muniz.

Remember to vote for Oral History Association Council members and Nominating Committee members this summer.

OHA members in good standing will receive biographical information, candidate statements and ballots by mail. Please return the postcard ballot and contribute your voice to the leadership of the organization.

In this issue

From the president

The significance of oral history

Just as the late historian Benjamin Quarles asserted that blacks have been a major defining force of American life and culture, oral history has been a major force in freeing the academy from its insistence on assumed objectivity, faithful reverence for primary sources and the unquestioned veracity of the written word. Indeed, many oral historians have advocated the importance of both the discipline of oral history and the creation of oral documents as essential to researching and writing balanced and unbiased history.

For half a century, oral historians and non-traditional academics have posited that oral history, done properly, is a way to define and gather legitimate sources that challenge the primacy of written documents in the construction of the received cultural heritage that constitutes the national historical narrative. This new approach to oral history challenged the elite emphasis of the Columbia University Oral History Program under Allan Nevins. Moreover, by admitting a new documentary base into the canon, oral history has freed both the academic community and Americans letters from their narrow constructions of acceptable and appropriate sources.

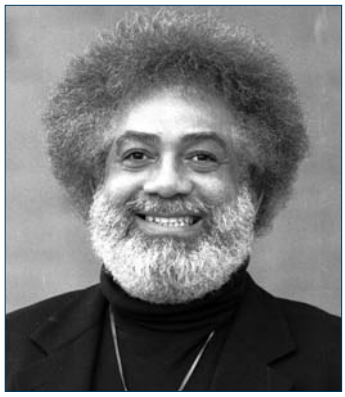
Oral history has paved the way for countless individuals, groups, institutions and organizations to tell their stories and have their memories preserved and their voices heard in a variety of previously closed venues.

In giving legitimacy and public place to the historically voiceless, oral history has given credence to the ideas and methods of intellectual inquiry that exist outside of the traditional disciplines. Consequently, it is because of the work of oral historians, broadly defined, that the American Studies Association can put out a call for papers for a major conference on "feelings," Harvard can create a hip-hop archive, women's studies was forced to move away from elite narratives and major questions were asked about the construction of the dialogues around class, gender and race.

Oral history demands that researchers gather information from the perspective of everyone involved in any historical drama. Oral historians follow a rigorous and systematic interrogation of both traditional and non-traditional sources before writing history. Oral history has paved the way for countless individuals, groups, institutions and organizations to tell their stories and have their memories preserved and their voices heard in a variety of previously closed venues.

Since its founding 40 years ago, the Oral History Association has been in the forefront of pioneering ways to incorporate material, musical, performed, recorded and spoken documents into the academic canon as useful and valuable sources. This openness to new ways of knowing has allowed oral history to address, debate, entertain and legitimize a host of subjects heretofore never discussed in the staid halls of ivy.

Consequently, conferences on feelings, debates on the value of memory, analyses of stories, reconstructions of material culture and questions about the validity of performance all owe their legitimacy to oral history as a viable academic discipline and an acceptable methodological practice. Thus, the parameters of permissible discourse have been expanded, nurtured and sanctioned by oral history as a significant part of the educational enterprise and of the Oral History Association as a professional organization. Even a casual survey of academic program booklets in 2007 reveals a wide-ranging programmatic and topical expansion over the past three decades that can be attributed to oral history.



Alphine Wade Jefferson

With this background in mind, Mehmed Ali (OHA's first vice president), Norma Smith and Horacio Roque Ramirez (program co-chairs), Nancy MacKay (local arrangements chair) and I invite you to join us Oct. 24-28 for the Oral History Association's annual conference. The meeting's theme, "The Revolutionary Ideal: Transforming Community Through Oral History," is exemplified in the variety of the sessions planned.

Come hear community activists and scholars exchange ideas and information on subjects ranging from "The Next Generations of Oral Historians" at the Oakland Museum of California to the presidential reception featuring the Black Panther Party. The Bay Area contains one of America's most diverse communities. Join us on the San Francisco Bay, eating in Chinatown and exploring the hills of Marin County. Walk with us as we stroll down Telegraph Alley and sit on a bench in People's Park. Take a photograph under the street signs of Haight and Ashbury and recall "the summer of love" when utopian ideals of the transformative power of struggle were linked to "the age and place of Aquarius."

Indeed, we are using this meeting to continue our celebration of OHA's 40 years of advocacy for oral history. In addition, we also want to confirm the special place that oral history has helped to carve in securing appropriate recognition for folklorists, memoirists, public historians, storytellers and all of the people who work to expand the varieties of evidence useful in interpreting, researching, publishing and writing history.

Join us as we celebrate OHA and oral history for asking deeper questions and demanding complete answers from a larger variety of documents and sources. Hence, not only has oral history helped to pioneer the new social history, but it has also redefined the meaning of history, widened the spaces for public discourse and given history back to the people. Join us on "the dock of the Bay," and relive "Power to the People."

Alphine Wade Jefferson, Ph.D.
Professor of History and Black Studies
Randolph-Macon College

What's in your legal release agreement?

By John A. Neuenschwander, Carthage College

Last fall I published a request for legal release agreements in this publication, on the H-NET/OHA Discussion List and in several regional oral history newsletters. A total of 72 agreements from a wide variety of programs including major universities, libraries, government agencies, local historical societies and independent oral historians were submitted. A pledge of strict confidentiality was extended to all submitters that no identification whatsoever would be made of any program or individual in any published review.

The purpose of this article is to provide an overview of types of agreements currently in use and to offer some assessment of the most common approaches to key drafting issues such as transfer of copyright and future use provisions. In addition, considerable attention will be focused on restricting access to or sealing interviews, interviewer releases, copyright licenses for interviewees, release agreements that have been modified to satisfy Institutional Review Boards and warranty or indemnification clauses.

Major Types of Agreements

The vast majority of the agreements surveyed were deeds of gift. This result is not surprising since as Robert Vanni notes, there is a long American philanthropic tradition of using such instruments to convey memorabilia and papers to nonprofit organizations. [Vanni, Robert J., "Deeds of Gift: Caressing The Hand That Feeds," Lipinski, Thomas (Ed.), *Libraries, Museums, and Archives: Legal Issues and Ethical Challenges in the New Information Era*. (Lanham, Md.: Scarecrow Press, 2006), 1-2] Long before oral history came into being, archives and libraries relied primarily on deeds of gift to legally accept and utilize donated materials.

The standard recital in such agreements is usually: "I herein permanently give, convey and assign to_____."

Contract type agreements came in a distant second. To qualify as a contract, courts generally require a lawful object, consideration, mutuality of agreement and mutuality of obligation. A simple recital like: "In consideration of the recording and preservation of my oral history memoir, by_____, I herein relinquish and transfer to _____." is usually sufficient.

Finally, several of the agreements surveyed seemed to be hybrids containing language from both deeds of gift and contracts and a couple did not fit into any of the above categories and were simply titled releases.

As in most legal agreements, clear writing that spells out the obligations of both parties and sets forth all reasonably anticipated contingencies is essential. Oral promises or assumptions that parties discuss but fail to include in any agreement should be avoided entirely. If such oral provisions or promises are important, they should be incorporated into the standard release agreement.

Future Use Language

Recitals of the uses that could be made of an interview are an important part of every legal release agreement. A release agreement that is silent on this key issue would not only be unfair to the interviewee but would call into the question the ethics of the program or archive as well as potentially raise a legal red flag. The first and second Responsibilities to Interviewees in the *Principles and Standards of the Oral History Association* specifically mandate: "Interviewees should be informed of…the anticipated uses of the particular projects to which they are making their contributions….and the expected disposition and dissemination of all forms of the record, including the potential for electronic distribution."

The best future use provision strikes a balance between fully informing the interviewee of the foreseeable uses that might be made of his or her oral memoir without unduly limiting the future options of the program or archive. A good example of this is a statement that addresses both known potential uses and the possibility of unknown future uses: "These materials may be made available in formats other than the original, including but not limited to: print, electronic (including CD/DVD), or Web/Internet, for purpose of research, instructional use, publications, or other related purposes."

One consideration that a handful of agreements recognized is the difference between the future use of one's interview and his or her likeness and name. The right of publicity is actually a property right that comes about when a person's name or likeness is used to promote a commercial enterprise. This right is most often associated with prominent entertainment and sports figures but a handful of programs thought it wise to secure a specific release—"I hereby authorize the use of my name, likeness and voice."—so they had no right of publicity problem if they used this individual to promote a publication or program.

Transfer of Copyright

It is sometimes hard to conceptualize that an interview in any form is something other than physical property. But of course it also is intellectual property. It clearly qualifies as an "original work" under federal copyright law whether it is an interview about working for the Civilian Conservation Corps during the 1930s or a famous writer's account of what has shaped her creativity. As such, the rights to utilize an interview by publishing, distributing, performing, displaying or preparing a derivative work are entitled to protection under the Copyright Act.

For programs or archives legally to make full use of their interviews, a transfer of copyright from the interviewee is thus essential. While there is always the option of putting an interview into the public domain and dispensing with copyright altogether, only two of the releases surveyed chose this path.

To secure a proper transfer of copyright, the Copyright Act specifically mandates that an instrument or conveyance or memorandum of transfer be used and that it "is in writing signed by the owner of the rights conveyed." [17 U.S.C.A., Sec. 204] But what does this required writing have to say? Unfortunately the statute is silent on this issue, but several Federal Circuit Courts of Appeal have offered some helpful guidance.

The 7th Circuit held that a transfer document need not even include the word copyright to be valid. [Schiller & Schmidt v. Nordisco Corporation, 969 F.2d 410, 413 (7th Cir. 1992)] The 2nd

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Oakland OHA program largest ever

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As we enter the organization's fifth decade of life, we hope you will come to Oakland to share in the spirit of "The Revolutionary Ideal" that has been part of the oral history tradition toward a more democratic knowledge base and society.

We encourage you to arrive early on Wednesday, Oct. 24 to attend a welcome plenary at the renowned Oakland museum of California early that evening, when panelists reflect on the next generations of oral historians. While at the Museum you will also have the opportunity to attend the Día de los Muertos/Day of the Dead exhibit.

Oakland Tribune Tower—courtesy of the Oakland Convention & Visitors Bureau. Photo by Barry Muniz.

A full day of exciting and practical workshops will precede the Oakland Museum plenary that evening, followed on Thursday morning with the first set of panel sessions and our formal opening plenary that afternoon and the joint Presidential Reception and special plenary session on the history of the Black Panther Party that evening.

Our rich video and films series featuring nine original works will also begin on Thursday and run through Saturday and will include many of the producers and directors of the works.

Friday's luncheon keynote address will be delivered by journalist and author Tram Nguyen who will describe her work interviewing in communities targeted by profiling and enforcement policies following Sept. 11.

In addition to the usual dine-around groups Friday evening, you will have the opportunity then to cross the bay to attend a special reception hosted by the Gay, Lesbian, Bisexual, Transgender (GLBT) Historical Society of San Francisco.

Finally, the keynote speaker after Saturday's awards dinner will be journalist and author Barbara Becnel discussing her work to maintain the community-transforming legacy of former death row prisoner Stanley Tookie Williams, who was executed in 2005.

We see our OHA 2007 Oakland conference as a model for future organizing and oral history research, with plenary sessions, keynote addresses, workshops, panels and receptions focused on a diverse range of communities. We hope you will register early and let colleagues, friends and students know about our meeting. Oakland will certainly allow for numerous opportunities for networking regionally, nationally and internationally, and we look forward to your ideas for expanding our collective oral history visions and the OHA. ❖

Video conference planned at OHA for oral history educators

By Barry A. Lanman and Laura M. Wendling, OHA Education Committee

Oral history educators have always combined cutting-edge technology with interactive instruction to deliver unique curricular offerings. In this spirit of innovation, the Oral History Association conference in Oakland will expand its audience via a video conference titled "Connecting Oral History Educators through Video Conferencing – A Model Instructional Approach for the Future."

The primary purpose of the video conference is to share best practices of oral history education and to explore oral history curricula that apply to community history, diversity, historical empathy and building cultural bridges.

While these are assertive topics in their own right, the secondary purpose of the video conference is to demonstrate how video conferencing can build a core of individuals who participate in an oral history conference even if it is only by a virtual connection. For K-12 as well as university level educators with limited travel budgets, this approach offers a cost-effective form of professional development.

University settings such as the University of Maryland, Baltimore County and Cleveland State University will connect with the Professional Development Center, California State University, East Bay (across the street from the Oakland Marriott) to share new instructional strategies and to demonstrate how a new segment of membership can be built for oral history organizations. To make this unique opportunity a reality, the following sources generously contributed a significant amount of time and funding:

- The Oral History Association
- The Consortium of Oral History Educators
- *Preparing the Next Generation of Oral History Educators: An Anthology of Oral History Education*
- Cleveland State University Teaching American History Project Consortium
- The Center for History Education, University of Maryland, Baltimore County
- Baltimore County Public Schools

Because of this financial support, there will be no charge to attend this Saturday morning session on Oct. 27. Thus, OHA's Education Committee and the Consortium of Oral History Educators invite oral historians, aficionados of technology and oral history educators to participate in this interactive endeavor. The video conference promises to expand horizons. ❖

Former FBI agents document secretive careers

By Brian R. Hollstein, FBI Oral History Heritage Program

How do you develop an oral history program for a group of very interesting people who are by nature reticent to talk about themselves? In addition, you have a modest budget, interviewers and interviewees scattered all over the country, and you expect your interviews to uphold high standards of quality. Mix in a secretive government agency and you have the starting parameters for the FBI Oral History Heritage Program sponsored by the Society of Former Agents of the FBI.

Because many of the problems we encountered face other nonprofit organizations using volunteer interviewers, we believe that our methodology will assist them with their oral history projects.

Our program began four years ago with the mission to preserve the stories of the people of the FBI and make their memories available to scholars and researchers as well as the general public. Through the program, we seek to humanize FBI agents, who actually are ordinary people and for the most part bear little resemblance to the portrayals we see in movies and TV shows. Moreover, the Freedom of Information Act postings that scholars and journalists rely on are the product of a bureaucracy. They give very little feeling for the people who were involved in the production of those memoranda and files.

The author of this article, a former FBI special agent, serves as program manager. He volunteers his services but receives reimbursements for out-of-pocket expenses. A paid part-time program administrator, widow of a former agent, handles all clerical work, oversees the transcription process and keeps track of trainees, interviewers, interviews and equipment.

Our project started with basic funding from the Former Agents of the FBI Foundation, the charitable arm of the Society of Former Agents of the FBI. Because they have knowledge of the workings of the bureau as well as individual cases, former FBI agents serve as volunteer interviewers. Former agents also share experience and culture with interviewees, which helps to overcome the reluctance many feel about being interviewed and also encourages them to open up more than they might with other interviewers.

Incidentally, our program uses the word "interviewee" rather than the usual oral history term "informant," which has a quite different meaning for FBI agents!

Although these interviewers have vast experience with criminal investigations, they need training in oral history's scope and goals. For this reason, we hired as our principal consultant a professional oral historian who had served as the FBI's first official historian and therefore was also familiar with the bureau and its culture. We developed a workshop to familiarize our volunteers with oral history techniques and the standards of the Oral History Association. Our interviewers receive a small honorarium. Where overnight travel is required or an interview of an agent living abroad is conducted by telephone, we reimburse those expenses.

Initially we thought we would hold workshops at our regional conventions. We quickly found that attending meetings and playing golf with old friends would take precedence over a class. Instead, we set up a day-long group session in Tampa for five former agents living in Florida where a large number of our retirees reside. We prepared a manual and a lecture-style training program using slides with an accompanying take-home manual. In addition, the workshop included a practical exercise involving interviewing and using the equipment. The day was a great success but we realized that the cost of travel for the trainer, her fee and travel for the attendees, equipment and training facility would use up most of our modest budget while reaching interviewers in limited geographical areas. We needed a new cost-effective approach.

We hit upon the concept of using conference calls led by our trainer and supplemented by a CD-ROM containing the slide presentation and a printed manual. About a week before the training session, our interviewers receive a copy of the CD- ROM and a manual replicating the text slides (the presentation includes animation, photographs and graphics). The manual also contains the release form, an equipment checklist and documents from the OHA Web site. A loose copy of the release is also included so that it can be photocopied. Sessions take place from 8 to 10 p.m. Eastern Time to accommodate West Coast interviewers. We try to limit attendance to six.

On the day of the session, they access a standard conference call system, turn on their computers and open the CD-ROMs. They view the slides as the trainer lectures, stopping at the end of each section for questions and comments with a five-minute break. The lecture includes the purpose of the program, the approach to the interviewee, preparation for the interview, conducting the interview and post-interview responsibilities. We also stress the legal ramifications of oral history interviews, explain how the interviewee may place restrictions and strongly emphasize the written and oral release of the interview to the Society of Former Agents of the FBI. We find that this training system is cost effective (about $150 in telephone charges per session with five people), acceptable to the attendees and gets the training job done.

Only a few of our interviewers took the initiative to select their subjects; those who did, checked first with the administrator to make certain that the person did not have a previous interview. Usually the program manager assigns the interviewee. We also supply bibliographies and sometimes books in our collection to help the interviewer prepare.

After the interview is arranged, the interviewer receives a society-owned kit consisting of at least one recorder (many use their own for a back-up), microphones, power supply and earphones. The society also owns a camcorder, and we have several video interviews. However, their quality is uneven, and we decided not to conduct video interviews until we have the means to produce more professional recordings.

Our interviewers simultaneously record on two machines, often one digital (primary) and one analog (back-up). Although former agents sometimes complain that they never used a second recorder in their work and never had a problem, on at least three occasions the digital medium failed to record properly. One of those failures involved an interview with a figure significant in the Watergate aftermath who died the following week. If we had not recorded a back-up, his story would have been lost.

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Former FBI agents document secretive careers

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Once the interviews are completed, they are sent to the program administrator to be copied and transcribed. Just as former agents as interviewers encourage our subjects, our transcribers also have FBI associations either as former employees or spouses of agents. We originally relied on volunteer efforts, but decided that by paying standard transcription rates the transcribers completed their work more quickly.

Next, our administrator or the interviewer reviews the transcript to remove "ums and ahs" and needless repetitions and to correct the spelling. Then the interviewee has an opportunity to review the transcript, correct inaccuracies and if necessary place or remove restrictions. Our collection so far has few restrictions, but the possibility helps the interviewee be more candid. After editing, final copies of the printed material are bound and packaged with a CD-ROM of the transcript. A copy is provided to the interviewee with thanks for his or her cooperation, and additional copies are reserved for the repository.

As of July, the project had about 130 interviews totalling nearly 6,000 pages of transcriptions. Most of these interviews contain information about the inner workings of the FBI, its cases and its people that would have been lost to history had it not been for this program.

For our pilot project, we selected the FBI's Special Intelligence Service (SIS), which consisted of agents who went undercover as spies in Latin America during World War II. Some people may recall the SIS from the book or the Jimmy Stewart movie, "The FBI Story." But its true story remains largely unknown, even to World War II historians.

Our program contains the recollections of almost every known member available to be interviewed. Their counterintelligence operations against the Nazis include stories of interdiction of platinum smugglers, the identification and neutralization of enemy intelligence agents, foiling of sabotage plots, breaking German military codes and diverting funds meant for support of sabotage operations in the United States. Because these agents were young during their Special Intelligence Service years, many went on to have fascinating and significant FBI careers that the interviews also document. The Society of Former Agents of the FBI Web site, www.socxfbi.org contains a sample of the SIS interviews that are open to the public.

We also concentrated on agents who came on duty before 1940 and have been fortunate to find quite a few who fit that profile and are good interview subjects. With the SIS project close to completion, we recently began concentrating on the civil rights struggles in the South of the 1950s and 1960s. This remains one of the areas in FBI history least understood by scholars, journalists and the public. Almost nothing has been written from the perspective of the agents involved in the efforts to subdue the Ku Klux Klan and investigate civil rights violations. To this day, a distorted picture of the FBI and civil rights affects the bureau's efforts to recruit minority agents.

Our interviewees include agents who participated in as well as recorded the protest marches, who investigated the murders of civil rights workers, church bombings and arson, futile voter registration drives and who helped bring about the destruction of the Ku Klux Klan. In their interviews, they also recount how their civil rights work affected their families as well as the experiences of the citizens who risked lives and livelihood in the struggles for black constitutional rights.

Other interviews completed or in the works are exploring Cold War counterespionage, organized crime, Watergate, the transition of the FBI after the death of longtime director J. Edgar Hoover, the experiences of women and minorities in the bureau and shifts in technology and mission that have been ongoing since the FBI began in 1908.

Ideally, interviews should be maintained in the custody of a reputable research facility, although the nonprofit may continue to have intellectual control, as the Society of Former Agents of the FBI does. Except for restricted portions, the interviews should be as accessible as possible. Posting "read only" transcripts on the Internet, as we hope to do with all the society's interviews, will give them a wider public face while saving time and money for the repository. We are currently negotiating with an institution that meets our specifications.

When we started our project we received guidance from other oral history programs, from members of the Oral History Association and from OHA pamphlets and brochures. Here's what we have learned:

> The concept of using interviewers and possibly transcribers who have experience in the organization being profiled ensures that they are accepted by the interviewees, the interviews are conducted in depth, they are reasonably accurate and much of the human interest is brought out.

Equipment used should provide reasonably high quality but not be so difficult to use that it discourages interviewers, many of whom in our program are elderly.

Volunteer interviewers in our project receive an honorarium and any major expenses are reimbursed. This has worked well. Similarly, we found paying "volunteer" transcribers the going rate made a huge difference in timeliness.

Quick feedback to the interviewer and interviewee concerning the recordings is important. We have not always adhered to this and we are trying to streamline the process.

Using volunteers for management and execution of a project of this size requires patience and dedication. Things always seem to take longer than planned.

When our principal consultant reports on our program, she always notes that its success proves that one person can "change city hall." During the years she headed the FBI's history office, conducting oral histories seemed a good idea, but lack of time and funds limited her to only two major interviews; her successor has had similar problems. But the principal author of this article persisted, and transmitted his enthusiasm to the board of the society's foundation, to the professionals who assist him and to the many volunteers that make the program possible. Our program's small staff considers it important to pass on its experiences to other organizations contemplating implementation of an oral history project.

Anyone interested may contact us through the Society of Former Agents of the FBI, socxfbi@socxfbi.org, and put Oral History in the subject line. We will be happy to confer with you. ❖

Editors's Note:

Brian Hollstein was a special agent of the FBI from 1967 to 1977. He is a consultant specializing in international litigation support and crisis management. Principal consultant Susan Rosenfeld assisted with this article. Both are members of the Oral History Association.

What's in your legal release agreement?

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Circuit indicated no magic words were required by the Copyright Act, but the parties' true intent must be clearly discernable from the language used. [Radio Television Espanola, S.A. v. New World Entm't Ltd., 183 F. 3d 453, 457 (2d Cir. 1998)] The bottom line is if you want to secure a full, legal transfer, say so.

The vast majority of the agreements examined would satisfy the criteria set out by the 7th and 2nd Circuits because of unequivocal language like: "I hereby transfer to _____legal title and all property rights including copyright." Several agreements, however, made no mention whatsoever of literary property or copyright and one agreement referred to the interview as simply "property" and then went on to detail the future uses that might be applied to this "property."

The right of the interviewee to utilize his or her oral memoir during his or her lifetime was recognized in about a third of the agreements. Such lifetime licenses were usually set out quite simply: "This gift does not preclude any use that I may wish to make of the recorded information, including publication."

Placing Restrictions on or Sealing Interviews

At least a third of the agreements received contained some provision for restricting access or sealing interviews. Most included such options at the bottom of the standard agreement while the rest either had a separate page or agreement with options like sealing for a number of years or until the death of the narrator, closing portions of the interview, use of a pseudonym or prohibiting electronic distribution or broadcast.

Only three of the agreements surveyed also alerted narrators that while the programs would seek to enforce the restriction or seal, their interviews might have to be opened or turned over due to either a Freedom of Information Act request or a subpoena.

Interviewer Releases

Approximately one quarter of the agreements surveyed required the interviewer to sign as well. While most of these releases were being used by programs that rely on volunteer interviewers, a few were university based. Although the Copyright Act is silent on whether an interviewer is a joint author and there is no case law yet on this point, the policy of the Copyright Office is to withhold registration of an oral history memoir unless both the interviewee and interviewer have transferred their copyright interests. As a result, some programs or archives have decided to employ a legal release with an interviewer if he or she is not a full-time employee or clearly designated independent contractor.

Institutional Review Board Modified Releases

Much has been written about the clashes and misunderstandings between faculty, graduate students and even undergraduates wishing to conduct oral history interviews and university Institutional Review Boards. On some campuses IRBs have either refused to grant exempt status to oral history research or have tried to force on researchers unnecessary restrictions and limitations.

Occasionally, a university-based oral history researcher reports that he or she has been able to work out a reasonable accommodation with the local IRB that was not burdensome and satisfied both parties. One of the most common points of conflict is the legal release agreement. Under the federal Common Rule, consent is one of the most important considerations in determining whether a human subject has agreed to participate in a clinical trial or study. [45 CFR Sec. 46.117(a) (2005)] Most IRBs spend a good deal of their deliberations making sure that the consent procedure for a particular study satisfies the eight elements of consent.

Nine of the agreements received for review had been modified to incorporate the elements of consent that were deemed pertinent to proposed oral history research.

Six elements from the Common Rule appeared in all nine of these agreements:

> A statement of the purpose of the research, duration of participation and description of the procedure to be used,
>
> A statement of foreseeable risks if any,
>
> A statement of foreseeable benefits to the individual or in general,
>
> A statement indicating that participation was voluntary and could be terminated at any time without penalty,
>
> A statement on confidentiality if applicable,
>
> A contact person or persons should an interviewee have questions or concerns.

The following paragraph from one of these IRB-modified agreements provides a succinct example of incorporating these elements:

> "The interview will be conducted in the form of a guided conversation and will last approximately _____. I will be free to decline to answer any question that makes me uncomfortable. Moreover, I have the right to stop the tape recording at any time with no negative consequences. There are no foreseeable risks in doing this interview. The benefit of the interview is to the general public in the form of increased historical knowledge. I recognize that because the interview will be donated to the University of_____there is no assumption of confidentiality, unless I expressly request it."

The names of contact persons for questions or concerns were also included.

Standing alone, the inclusion of six of the eight elements of consent from the Common Rule might appear to many oral historians as at best unnecessary and at worst a potential hindrance to interviewee participation. However, some of the Responsibilities to Interviewees found in the *Principles and Standards of the Oral History Association* mirror these elements:

- Interviewees should be informed of the purposes and procedures of oral history in general and the aims and anticipated uses of their interview,

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What's in your legal release agreement?

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- Interviewees should be informed of the mutual rights in the oral history including all potential futures uses.
- Interviews should remain confidential until interviewees have given permission for use.
- An interviewee's right to refuse to discuss certain subjects must be respected.

The modifications made to these nine release agreements to receive IRB approval suggest that perhaps on these campuses at least, the gulf between the medical or scientific culture of the IRB and the social or humanistic one of the oral historian has been bridged successfully.

Warranties and Indemnifications

Six of the agreements required the interviewee to make a disclaimer. This was usually in the form of a warranty that he or she had not been interviewed before and previously signed a release to another program or archive: "I herein warrant that I have not already assigned or in any way encumbered or impaired any of the aforementioned rights in my memoir."

Another seven agreements required interviewees to agree either to indemnify the program or archive against any subsequent legal action arising from his or her memoir or to hold the program harmless for any misuse of the interview that a third party might make. The following is an example of the first type of blanket indemnification provision: "I release and indemnify _____from any and all claims or demands or lawsuits arising out of or in connection with the use of the interview, including but not limited to any claims for defamation, copyright violations, invasion of privacy or right of publicity."

The second type of provision was more narrowly focused on misuse of an oral memoir by a third party.

Conclusion

As careful readers will have noted by now, the purpose of this article was not to provide a legal grade for the 72 agreements surveyed but to spotlight commonalities, new developments and areas of concern. Since the commonalities are most evident and need no reiteration, I will conclude with important new developments and areas of concern.

The two most significant new developments are the growing number of programs or archives that routinely grant lifetime copyright licenses to interviewees to use their oral memoirs as they see fit. While few may ever avail themselves of this opportunity, such licenses signal a generous and open approach and should be favored and not avoided.

The second major new development is the nine release agreements that had been modified to satisfy a university IRB. Hopefully they are indicative of a promising trend that will see less misunderstanding and more cooperation between oral historians and IRBs.

Only a few areas of concern deserve mention. The handful of releases that did not fit into any type of commonly recognized agreement format (either a deed of gift or contract) could be problematic if challenged because there would be no established legal criteria to compare them with.

The transfer of copyright provision need never be a problem since no magic language is required, but it cannot be accomplished by silence or by referring to an interview simply as "property."

Finally, indemnification or hold harmless clauses usually come about as the result of active bargaining between the parties to a contract. As such, they usually are enforceable in court. Such negotiations, however, rarely occur in the presentation and signing of an oral history agreement. Thus, if a program or archive really wished to be protected by such a clause, it would be important both ethically and legally to document the process by which prospective interviewees were fully informed that by signing the agreement they assume full legal responsibility for any claims or lawsuits arising from their interview. ❖

Editor's Note:

John A. Neuenschwander is a past president of the Oral History Association and is the author of the OHA pamphlet *Oral History and the Law*.

Music oral historian honored

Vivian Perlis, founding director of Yale University's Oral History American Music project, has received a Lifetime Achievement Award from the Society for American Music, the Yale Bulletin has reported.

Perlis was recognized for her efforts to create an extensive archive of oral and videotaped interviews with prominent American musicians, including Charles Ives, Aaron Copland, Eubie Blake and John Cage. Her work also has been featured in the **OHA Newsletter**.

More information on Perlis and the Oral History Project can be found at www.yale.edu/oham/

Projects keep Las Vegas oral historians busy

By Claytee D. White, Director, Oral History Research Center, University of Nevada, Las Vegas

The Oral History Research Center at the University of Nevada, Las Vegas is actively engaged in several innovative projects. With one graduate assistant, a part-time undergraduate student and one full-time employee, the center is working on five different endeavors.

We are bringing two projects to a close: The Boyer Early Las Vegas Oral History Project and UNLV @ Fifty. We are editing and binding the100 interviews of early Las Vegas and as a special component we are featuring dancers and showgirls on our Web site. The final five interviews of UNLV's 50-year history are being scheduled so that our editing and binding can be completed as the celebration begins this fall.

As a combined venture, we are working with the University of Nevada, Reno's Oral History Program on the history of the civil rights movement or the history of the 1970s in Nevada. We have collected seven of these interviews thus far with the expectation of adding 10 more. Interviewees include welfare rights activist Ruby Duncan, whose group closed down the Las Vegas Strip on a Saturday in the spring of 1971 in a protest march that included Jane Fonda. Each interview will be bound individually with a comprehensive volume as an overview of the entire project.

Two UNLV professors, Deborah Boehm and Patrick Jackson, developed a project to interview residents of our first neighborhood listed on the National Register of Historic Places – The John S. Park Neighborhood. Through extensive oral histories with current and previous residents of the neighborhood, the project will provide data about intersecting topics and themes – gender, class, race or ethnicity, religion, local politics, sexuality, age and generation, gentrification and forming communities, living in a historically preserved area and other aspects of the Las Vegas urban experience. Because Boehm has taken a position at UNR, the Oral History Research Center will assist in designing and completing this major work.

Finally, we have All That Jazz, the brainchild of a member of our Libraries Advisory Board, Mahlon Brown. He wants us to capture the stories of musicians who played on the Strip in the 1950s –1970s and who are still playing today. We expect great oral accounts of Las Vegas entertainment over the years and wonderful footage as well. Through our development officer, MJ Miller, we sought and secured funding for this and a future project that I will tell you about at a later date. Watch for updates at our Web site: http://www.library.unlv.edu/oral_histories/index.html

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Tongan journeys: a history of the Tongan community in Utah

By Susan J. Wurtzburg, University of Utah and Fahina Tavake-Pasi and Ivoni Nash, National Tongan American Society of Utah

A new initiative to document the oral history of a Tongan diasporic community is underway in Salt Lake City, Utah. The project is a joint enterprise between the Gender Studies Program, University of Utah, and the National Tongan American Society of Utah.

The program has received equipment and transcribing funding from three granting agencies, although the actual interview work is undertaken by University of Utah service-learning students and community volunteers. The Bennion Center at the University of Utah, Salt Lake City provided a community-based research grant for the past year, and currently, the project is funded by an oral history grant from the Utah Humanities Council and the Utah Division of State History.

The Tongan Journeys Project will be of benefit because there is minimal documentation of Tongan history in Utah. This situation is surprising given the size of the local population, which is a direct result of the Church of Jesus Christ of Latter-day Saints' involvement in the Pacific Islands. Census Bureau data show nearly a fourth of the U.S. Tongan population resides in Utah.

Despite the nationally important ranking of this socially-cohesive community, most of whose members live in Salt Lake City, only a few academics have conducted research with Utah Tongans or other Polynesians here, and all of these contributions have remained in the form of unpublished research, conference presentations, theses or encyclopedia entries, which have not been widely disseminated. For these reasons, Utah Tongans remain almost invisible in the extensive scholarly literature about Polynesian diasporic communities in North America.

The Tongan Journeys Project will contribute Tongan voices to the Utah historic record. Awareness of the full range of community histories is fundamental for an informed understanding of the contemporary urban space and the people who live here. Members of the National Tongan American Society are eager to record the history of their community and to demonstrate their presence in the academic literature.

This task is important on many levels. Documenting Tongan history promotes a sense of well-being and belonging among members of the community and provides evidence of Polynesian contributions to Utah history at a time when immigrant populations tend to be undervalued in the state. Demonstrating the range of Tongan personal histories also shows the diversity in the community (e.g., gender, age, beliefs, etc.), which often is ignored by people who are unaware of these accounts.

Information about the Tongan community will be readily available to Salt Lake City residents and visitors since this project is operating in collaboration with various local agencies. Through media outlets and other public speaking opportunities, it is hoped that Tongan voices will be heard by the general public, and the Polynesian community will achieve greater visibility in the urban landscape.

Those interested in learning more about the Tongan oral history project may reach Susan Wurtzburg at: susan.wurtzburg@utah.edu. ❖

In Remembrance...

Remembering Dick Allen

By Joel Gardner, Gardner Associates

Dick Allen, one of the pioneers of oral history and a leading figure in the world of New Orleans jazz, died April 12, 2007, at the Carl Vinson Veterans Administration Medical Center in Dublin, Ga., near his hometown of Milledgeville, Ga. He had returned to Milledgeville in 2004 after more than a half-century in New Orleans, during which time he founded the William Ransom Hogan Jazz Archive at Tulane University and was one of the originators of the New Orleans Jazz and Heritage Festival.

Richard Binion Allen was born in Milledgeville Jan. 29, 1927, in a home for the mentally ill run by his father, a psychiatrist. As Dick expressed it, "It was just a small insane asylum, but it was always home to me."

He attended Princeton University, but left to join the Navy during World War II. When he was stationed in Mobile, Ala., he had his first exposure to jazz on weekend trips to New Orleans. After completing his undergraduate degree at the University of Georgia following his military discharge, he moved to New Orleans in 1949.

It is hard to realize today, when performers of traditional New Orleans jazz play regularly at venues throughout the world, but in the 1950s, African-American jazz musicians were largely marginalized. The jazz world, in thrall to bebop, disdained them, and young people turned increasingly to rock 'n' roll. In New Orleans, a brand of rhythm and blues that drew from other influences dominated the music scene, and white musicians predominated in the Bourbon Street clubs.

Ensconced in the French Quarter, Dick embarked on a master's degree in history and suggested to Hogan, his thesis adviser, that he undertake a series of interviews with jazz musicians. The idea led Hogan to create a jazz research center, with a grant from the Ford Foundation, and the Jazz Archive came into being in 1958. Dick was named curator in 1965, a position he maintained until 1980, though he remained affiliated with the archive into the 1990s. Over the years, he conducted hundreds of interviews.

Dick's renown was not limited to the Crescent City. Whitney Balliett wrote in the New Yorker in 1967: "Allen is not only the curator of the archive of New Orleans jazz. He is, in a sense, the curator of present-day New Orleans jazz itself." (To which Dick reportedly replied, "You left out *bon vivant*.")

Dick Allen, right, with Joel Gardner, left, and Terry Birdwhistell, center, on a ferry near Seattle during the 1983 Oral History Association conference. Photo courtesy of Joel Gardner.

I first met Dick when I was a graduate student at Tulane in the early 1960s. Preservation Hall was in its infancy, and since I, like Dick, was living in the French Quarter, I'd frequently run into him there. Our paths often crossed at the library, too. I had no idea that within a decade I would go from graduate student in French to oral historian, nor that Dick and I would find a new collegiality in the Oral History Association.

We touched base often, in Los Angeles and New Orleans and at OHA conferences, but when I moved to Baton Rouge in 1980, Dick became one of my pillars, regularly helping me with grants and workshops. We also spent three Mardi Gras together. Dick was brilliant, charming, much respected by his peers in the jazz history world and much loved by the musicians with whom he worked.

On April 28, Dick was honored at Jazzfest when a panel gathered to remember him, including: Quint Davis, director of the festival, who got his start working in the archive; Nick Spitzer, host of the public radio show "American Routes;" Michael White, jazz musician and historian; Bruce Raeburn, curator of the archive, and me. Oddly, I had known him longest.

Perhaps the greatest tribute to Dick was paid by John Craft, managing director of the New Leviathan Oriental Fox-Trot Orchestra (also co-founded by Dick), who dedicated the band's performance at Jazzfest to Dick and suggested that "every performer who felt Dick's support and affection over the years mention him at Jazzfest." And they did. ❖

Owen Bombard, oral history trailblazer

Owen Bombard, who established an oral history project at the Ford Motor Co. more than a half-century ago, died April 20. The native of Ausable Forks, N.Y., was 84.

Bombard's education at New York State College for Teachers was interrupted by service as a naval gunnery officer in the Pacific during World War II. But after his return, he completed a master's degree and went on to Columbia University where he earned a doctorate in American history and took a job as an oral history interviewer.

In 1950, the Ford Motor Co. hired him to establish an oral history program, which he headed until 1959. He later managed the company's public relations office until his retirement in 1980.

James Fogerty of the Minnesota Historical Society said Bombard was one of oral history's trailblazers for his work establishing the nation's first large-scale corporate oral history project. ❖

A Pioneer Passes: Remembering Mary Ellen Glass

By Tom King, Director, Oral History Program, University of Nevada

Mary Ellen Glass, who founded the University of Nevada's oral history program in 1964, directing it until her retirement in 1983, died March 15, 2007. She was two weeks shy of her 80th birthday.

Mary Ellen was a woman of considerable courage and determination, which she needed in abundance to found Nevada's program and to lead it through some trying times. The university expected much of her and the oral history program, but it was reluctant to provide the resources necessary for success.

From 1969 to 1989, the oral history program was a unit of the university library, where it was initially viewed as an intruder, taking up space that could be better used for "real" library purposes. From 1969 to 1979, its office was a single, 150 sq. ft. room, next to the lower book stacks, three levels underground, originally used to store custodial supplies.

Mary Ellen Glass accomplished wonders during her career. Not only was she the mother of Nevada's Oral History Program, but she also nurtured it to full adulthood, succeeding primarily on the strength of her own intellect, energy and enthusiasm.

Mary Ellen Glass

The office housed Mary Ellen, a part-time secretary/transcriber, their desks, a telephone, two typewriters, filing cabinets and a Wollensack open-faced 1/4-inch reel-to-reel tape recorder. Such constraints notwithstanding, Mary Ellen achieved great things. She offered a class in oral history, got students involved in the work of the program and expertly conducted a number of oral histories that document important themes in the 20th-century history of Nevada. She was also active in the Oral History Association, which she joined in 1969.

Mary Ellen became widely known in Nevada and highly respected for contributing to state and local history through her oral histories. She was also adept at incorporating oral history into scholarly works of her own, publishing two books and several articles on Nevada history and a history-themed Nevada travel guide that is still in print. Gradually, she raised the public profile of the program, which began to attract meaningful funding from private donors.

In 1979, two large gifts came in that literally lifted it out of the basement. These enabled Mary Ellen to relocate the program into remodeled space on the library's second floor, to purchase much-needed equipment and furnishings and to expand the paid staff. In 1980 she pushed the program into the nascent digital age by purchasing a DecMate computer for word processing. (It had a twin 8-inch floppy drive unit!)

Mary Ellen Glass accomplished wonders during her career. Not only was she the mother of Nevada's Oral History Program, but she also nurtured it to full adulthood, succeeding primarily on the strength of her own intellect, energy and enthusiasm. When she retired in 1983, she left behind a mature program with an excellent regional reputation and considerable potential for growth and achievement.

Following retirement, Mary Ellen and her husband traveled widely for awhile, but by the early 1990s they were spending half of each year at their place in Yuma, Ariz., and the other half in Reno. We stayed in touch. I pressed her to allow me to do an oral history with her, hoping to record a detailed account of the founding and development of the program, 1964-83, but she never agreed to it. She had not been happy with the way she and the Oral History Program were treated by the university and library administrations, and she simply did not want to talk about her career.

Finally, in 1994, on the occasion of the publication of our first newsletter, Mary Ellen permitted me to do a brief interview by telephone. We barely skimmed the surface of the subject, but she offered some insight into the obstacles she had to overcome to make the program a success. As with many other early OHA leaders and founders of academic oral history programs, Mary Ellen Glass operated in an environment that was not particularly supportive (or even respectful) of what she was trying to do. She and her peers had a much harder time of it than those of us who followed them in the 1980s and later. Yet, they persevered and succeeded in making oral history an accepted, legitimate and powerful research tool in the humanities and social sciences.

When Mary Ellen retired, I was chosen to succeed her as director. I inherited an outstanding program. I feel personally indebted to her—certainly, the program is. Oral history in the United States owes more to her generation of pioneers than some of today's practitioners may realize. ❖

News & Notes ...

Grant to fund Chinese women workers project

Migrant women workers in China exposed to hazardous chemicals in a battery factory are the focus of a $3,000 Emerging Crisis Oral History Research Grant awarded this summer to Karin Mak, an M.A. student in social documentation at the University of California, Santa Cruz.

Mak wrote in her application for the Oral History Association grant that her project will document the lives of workers who represent a "microcosm of an emerging crisis taking shape in China's industrial revolution."

"These stories provide context to the crises of increased economic disparity and occupational health problems that are accompanying China's rapid growth," she said.

Mak intends to use the oral history interviews to create a 30-minute documentary that chronicles the lives of the battery factory workers and their efforts to become leaders in a campaign to challenge hazardous factory conditions.

Charles Bolton, OHA's emerging crisis research grant committee chairman, said applications for the next emerging crisis research grant likely will be due next May.

* * *

The Dakota Memories Oral History Project,

sponsored by the Germans from Russia Heritage Collection at the North Dakota State University Libraries, has created a digital archive of its collection and two radio series, developed in collaboration with Prairie Public Broadcasting.

The oral history project documents the experiences of second and third generation Germans from Russia growing up on the Northern Plains. The project, which began in 2005, has collected about 150 interviews. Learn more at the project's Web site: www.ndsu.edu/grhc/dakotamemories.

* * *

Public history conference

Sept. 4 is the deadline to submit proposals for the 2008 National Council on Public History conference. The council invites proposals for sessions, presentations, panels, roundtables, poster sessions and workshops for its annual meeting scheduled for April 10-13, 2008, in Louisville, Ky. The theme will be "Public Histories of Union and Disunion." For more information, visit: http://ncph.org/2008annualmtg.html or e-mail: ncph@iupui.edu.

* * *

Troy Reeves, longtime member of the Oral History Association

and the Northwest Oral History Association, has relocated from his position as historian at the Idaho State Historical Society to a new job as head of the oral history program at the University of Wisconsin's Madison Library. His new e-mail address is: treeves@library.wisc.edu. ❖

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Submit photographs to **Photo and Production Editor Alexandra Tzoumas** at **alexandratz@verizon.net**

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