National Bankruptcy Archives Oral History Project

Guidelines for Interviewers

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I. Introduction: What is an Oral History?

Oral history is an in-depth interviewing and recording of a person's life experiences. An oral history may explore a person's ancestors, family of origin, and life experiences from childhood or it may focus on one aspect of a person's life, as in the current project. Even if conducted for a more narrow purpose (e.g., exploring the stories of persons who have made significant contributions to the development of bankruptcy law), the interview should be wide-ranging.

An oral history is not a journalistic interview about a specific topic or event; rather, it is designed to elicit a more comprehensive narrative and to include attention to the more emotional side of experience joys and sorrows, successes and failures, hopes, dreams, and disappointments. Oral histories create "thicker" descriptions of people, places, and events than is generally possible with a documentary trail. Oral histories leave behind a record that serves as a resource for later historians who may have different questions in mind than did the interviewer and who may find things in the oral history not intentionally elicited by the questioner.

Oral history interviews are, above all, conversations, but somewhat one-sided conversations. The job of the interviewer is to ask appropriate, open-ended questions that guide the interviewee to think and talk about the chosen topics, but also to respond as a listener would to what is said by the interview subject. It is important to establish a rapport with the person being interviewed, to make the interview a personal interaction, but not to influence or bias the story being told. The interview is not quite a monologue, but not quite a dialogue either. The interviewee should do most of the talking, with the interviewer playing the role of an interested companion. The interviewer can and should make brief comments and react to the interviewee's story, as well as ask questions, but should generally not intrude his/her own opinions and ideas into the conversation. It is a delicate balance - but one that is not very hard to maintain if you keep in mind your role and purpose.

Oral histories are grounded in memory, and memory is an activity fraught with complexity. The person you interview may or may not remember events entirely accurately or fully, and the memory will be filtered through that person's subsequent experiences. While you should be alert to inaccuracies, and ask follow up questions as appropriate to clarify and sometimes to correct, you do not have to second-guess your interview subject. Historians who use the interviews you help produce will try to paint an accurate picture of the history being told, and will evaluate the interviews for validity as they would for any historical source. Your job is to provide the raw material for that inquiry, not to seek the general "truth" about events being described.

II. Preliminary Research

Before each interview, you should become familiar with as much of the history of the interview subject as reasonably possible. At a minimum, you should ask each interview subject if he/she can send you a copy of a resume before the interview, if possible. Your aim is to know the context of the story your interview subject will tell and to ensure that you cover relevant material from his/her past. While each of you is likely more familiar with the subject than I, as Archivist I am happy to assist you in this research.

You will have prepared a general set of questions that will help guide your interview (see below), but you should also make notes based on your preliminary research of any avenues that you will particularly want to pursue. At a minimum, you should know the relevant positions the interviewee has held, anything he/she has published, and any relevant events in which he/she played a part.

III. Preparing an Interview Plan

You should prepare a list of questions you want to ask based on the subject areas you wish to explore. (See the Appendix at the end of this document for a sample set of questions.)

You will need to turn these topics into questions that will work well in the flow of an interview and that provide you a general roadmap of where you want to go in the conversation. But it must be a conversation, not a question-by-question drilling. Refer to the questions to be sure that you have covered what you intended to cover, but allow the conversation to have a natural flow. Listen to the responses you get and follow with questions that naturally come next, even if they do not appear on your original list. You will want to explore details of events and also sense-impressions and more philosophical musings. A major focus should be on what the interviewee knows directly from his/her own participation and involvement, but you should also ask about what was going on around them at the time when certain important events in bankruptcy history were happening.

You should plan on a concluding set of questions that provide a natural end to the conversation. You might ask about their feelings about the success of the work they have done, or what lessons they have learned. Think about what you would want to be asked to sum up your own experience, if you were being interviewed. You probably should also ask whether there is anything else they want to talk about that you haven’t asked about. And be sure to ask (probably after the taping mechanism has been turned off) who else you or others should talk to as part of this project.

IV. Tips for Good Interviewing

**Make sure you obtain a signed copy of the release form. The recording can't be used without it!

Perform a check of the equipment before you begin the formal interview. Make sure both you and the interviewee can be heard. If you are recording a video of the interview, try to position the interview subject near a light source. (You do not need to be on camera.) There is no need to tape over the test portion, because later editing by the Archives can erase this part.

Turn off cell phones and minimize or eliminate background noise.

Start the interview with a brief statement of the full name of the interviewee, your name, and the location and date of the interview. Then ask your first question.

Don't ask "yes" or "no" questions. Instead, ask questions that invite a narrative answer. For example, rather than asking (or only asking) "Did you attend law school with a career in public service in mind?" ask "Why did you attend law school?" and "What do you most remember from your experience at law school?" You can mix "short answer questions" (e.g., "What law school did you attend?") with follow-up narrative questions (e.g., "Why did you decide to attend law school?").

Refrain from asking leading questions that presume an answer. For example, don't ask "Did you feel that the Supreme Court was hostile to bankruptcy judicial reform efforts" but rather "What was the reaction of the Supreme Court to bankruptcy judicial reform?"

Ask one question at a time. Multiple questions asked together usually don't elicit answers to all the parts.

Start with "easy" questions about the interviewee's own experience and background. Save the philosophical questions and questions about controversial issues until later, after you have developed a rapport and a flow.

Keep your questions simple and direct, not long and convoluted. If you have two aspects to ask about, ask in two questions rather than one.

Consider the broad potential audience who will use these oral histories and briefly explain any specialized terminology. (Social historians of the future may not understand what "cram-down" is.)

Don't get "stuck" on the prepared questions. Listen to what you are being told and work your questions into the conversation naturally.

Don't be worried by silences, and don't rush to fill them yourself. If you have asked a question and the interviewee doesn't jump in with an answer immediately, wait for him/her to start.

Give the interviewee time to think, and to decide how to answer. Silence can be the prelude to the most thoughtful revelations.

Remember to ask not only the straightforward factual questions (who, what, and where) but the more probing ones (how and why). Ask about feelings and opinions.

As the interviewee talks about events, try to establish what his/her role was in the event. This will help make clear how much of what is said is eyewitness information and how much is based on reports of others.

Refrain from arguing with the interviewee, or challenging statements that he/she makes. Try to clarify or explore answers that appear to you to be misleading, but don't otherwise challenge the statements.

If the interviewee is uncomfortable about answering a question or revealing some information, encourage him/her to share what they do feel comfortable saying or to describe an event more generally and/or without naming particular individuals of whom they may be critical. But don't alienate the interviewee by pressing too hard.

Be sure to pay attention to the interviewee, not to the equipment except as absolutely necessary. Don't turn off the taping until the end, unless the interviewee requests it be turned off for a time or there is an interruption in the conversation (e.g., a phone call that must be answered).

Try not to cut off or talk over the interviewee. You generally want to encourage lengthy and complete answers and story-telling. If you feel you need to redirect an unreasonably long answer, wait patiently for a good opening. If you need clarification (e.g., time and place of an event, or further amplification), wait to ask until the interviewee is done with the answer to the previous question.

Watch for cues about subjects that the interviewee is willing to pursue if you are interested so that you can ask follow-up questions. For example, if he/she says "That wasn't such an important case. There were several others that were more important," that's an invitation for you to ask about the other cases.

Be alert to body language - your own and your interviewee's. Stay attentive, make eye contact, and show your interest. Nod your head or smile to encourage the speaker. Make small verbal responses as appropriate, but don't interrupt the flow of the speaker. Notice if your interviewee appears uncomfortable or reluctant to answer and try to find out why. You can ask whether he/she would like to move on to another topic. But as long as the interviewee knows that he/she can refuse to answer questions or ask you to move to something else, you can let him/her decide when to do that; he/she may endure a little awkwardness or discomfort on the way to deciding what to share.

After the interview has concluded, take the time to thank your subject and chat about the process. Leave the recording equipment running during this time, because sometimes post-interview conversation leads to more stories! You can remind him/her about what will happen to the copy of the interview, and when he/she may expect to receive a copy of the interview.

In the end, however, remember that this is a conversation. So relax and enjoy the experience!

IV. After the interview

Please send the signed consent form of the interviewer and interviewee, and the digital video (CD, DVD, USB Drive, Cassette, etc.) to the following address:

Leslie O'Neill
Archivist
Biddle Law Library
Penn Law School
3460 Chestnut Street
Philadelphia, PA 19104-3406

As a courtesy, email Leslie O'Neill at loneil@law.upenn.edu to let her know that materials are on the way.

V. Appendix

By way of example, here is a list of questions prepared for an oral history interview with Judge William L. Norton, recorded in July 2009.

Early Life

When were you born?

Where were you born?

What was it like growing up in Gainesville, Georgia?

Did you think you wanted to be a lawyer?

Where did you go to college?

What was your college experience like?

What made you decide to study law?

You went to law school at Emory University in Atlanta, Georgia. Why did you choose Emory?

What was your experience like during law school?

After graduating from Emory with your JD in 1950, what did you do next?

What were your experiences like studying law in the DC area?

After you completed your graduate work, what was your first legal position?

What sort of things did you do?

Early Career

What was it like practicing law in the 1950s and 1960s?

Did you make any memorable friends or colleagues from that time?

How did you get involved in bankruptcy law?

What did you enjoy about bankruptcy law practice?

Bankruptcy Judge

You were appointed a United States bankruptcy judge for the Northern District of Georgia in 1971. Can you tell me about how you came to become a member of the bankruptcy bench?

Can you talk more about the economic and political context for the bankruptcy reform efforts in the 1970s?

Were you involved in any of the bankruptcy reform efforts in the 1970s?

How do you think the Bankruptcy Reform Act of 1978 changed the field? What was the situation prior to its enactment? What was it like after?

How do you think the new law changed the bankruptcy bench?

What was the nature of your participation in the National Conference of Bankruptcy Judges?

You are perhaps best known for starting the Norton Institutes on Bankruptcy Law. When did those institutes start, and what was the genesis for starting them?

Can you talk about the *Marathon* case? What was the situation prior to the decision? What was it like after?

Can you tell me about the lawsuit you and others filed against the Administrative Office of the United States Courts in the 1980s?

Founding of the ABI and ACB

Around the same time that you began your institutes, you also helped found the American Bankruptcy Institute. How did that organization come about?

I understand that you and Judge Harry Dixon were not offered membership into the National Bankruptcy Conference. Did that motivate you to found the ABI?

What was the mission of the ABI?

Has the mission of the ABI changed, and if so, how?

Can you tell me about your involvement in helping to found the American College of Bankruptcy?

Why did you choose to use the term “College”? What does College mean to you in this context?

What do you consider to be the mission of the American College of Bankruptcy?

Question about merits for inclusion—and what about people new to the profession?

Can you talk more the discussion in the early days of the College over including judges as members? (This appears to be a recurring point of discussion among the College leadership.)

I understand there was debate among College leadership over making the ACB an honorary organization versus making it available to all bankruptcy professionals. Can you talk more about this and your opinion on the matter?

What type of practices do the members of the College have? (Is it primarily corporate clients, consumers, are they judges, professors?)

What leadership roles have you held within the College?

What was the relationship between ABI and the ACB? (I understand that there was debate over the extent to which the College should be a part of the ABI.)

What is your opinion of the National Bankruptcy Review Commission appointed by Congress in the 90s? I know that there was debate among College leadership as to the extent to which the organization should participate in the Commission.

What do you see as the relationship between the College and changes in bankruptcy law?

The College has hosted many renowned speakers at its meetings, including Ken Starr and Clarence Thomas. What do you see as the significance of having speakers like Starr and Thomas at College meetings?

How do you think the perception of the bankruptcy field by other members of the legal community has changed since you began practicing law?

What were some of the highlights for you of the College meetings you attended?

Later Life

You retired from the bankruptcy bench 1986. What did you do next?

Where do you see the role of bankruptcy law in the current economic crisis?

This is always a difficult question to answer, but what do you consider to be among your greatest professional achievements?

How do you spend your days now?