

Preparing legal documents

Interviewees must give you permission to record, reproduce, or distribute their words. With the storyteller's written permission, an interview with an eyewitness to history can become a primary document that provides significant historical information for years—and hopefully, generations—to come. Every oral history legal-release form should address at least the following matters.

Donor agreement

Through a contract or deed of gift, interviewees agree to donate their interviews to the interviewer, the interviewer's sponsoring organization, or the designated depository. Specific language indicates whether the donor agreement is a contract or a deed of gift. Ask your chosen oral history depository what type of donor agreement they prefer.

Copyright assignment

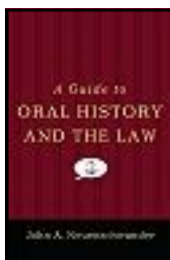
Oral history interviews are subject to U.S. copyright law, which protects fair use of the interview in reproduction, distribution, display, public performance, and the creation of derivative works. Before an interview is duplicated, transcribed or indexed (derivative works), made public as an audio file or transcript, quoted in a publication or broadcast, or deposited in an archive, the interviewee must transfer copyright ownership to the individual or organization sponsoring the project. When the interviewer is someone other than the designated copyright holder, the interviewer must also transfer copyright to the sponsor. Ideally, a release form should be signed before an interview series begins.

Future use

Interviewees have the right to know how their interviews will be used. Sponsoring organizations or individual interviewers will benefit from thinking broadly when explaining future use, as technological developments constantly create new avenues for publishing and distributing oral histories.

If for some reason interviewers want to restrict the use of their interviews, they have the right to state those restrictions, and the depository is obligated to protect the restrictions. To honor an interviewee's wish to restrict the use of an interview for a certain period of time or to limit future use in certain formats (such as on the Internet), provide a legal-release form that includes a section outlining the requested restriction or attach a form that supplements a general release form. It is very difficult to enforce restrictions that are linked to the duration of a lifetime, so ask the interviewee to specify a particular future date to end the restriction.

Interviewers and those who process recordings and transcripts should protect the interviewee's right to privacy by keeping all restricted materials totally confidential until the restriction period ends.



A full explanation of interviewee rights, samples of legal-release forms, language for restricting use, suggestions for avoiding potential legal claims, and even more, are available in
John A. Neuenschwander, *A Guide to Oral History and the Law*,
published by Oxford University Press, 2009.