

Two Oral History Projects, Two Countries and the Encountered Issues and Subsequent Solutions to Online Recording Accessibility Issues

Leslie Mccartney

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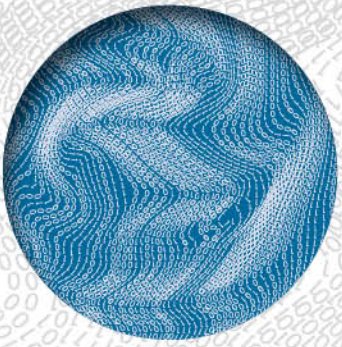


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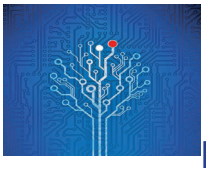
La diffusion numérique des données en SHS

Guide des bonnes pratiques éthiques et juridiques

sous la direction de
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DIGITALES



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Aix-Marseille Université

29, avenue Robert-Schuman – F – 13621 Aix-en-Provence CEDEX 1
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Two Oral History Projects, Two Countries and the Encountered Issues and Subsequent Solutions to Online Recording Accessibility Issues

Leslie McCartney
University of Alaska Fairbanks

Résumé : *Cet article met en lumière et explore les enjeux juridiques et éthiques aussi bien que les solutions qui ont été trouvées, et dont l'auteur a eu l'expérience en rendant des entrevues d'histoire orale enregistrées disponibles en ligne dans le cadre des projets basés à Londres et en Alaska (US). L'auteur propose ensuite un problème juridique ou éthique qu'il a rencontré au cours du projet, en résume l'histoire, et offre une solution en détaillant le processus par lequel la solution a été mise en œuvre. L'auteur discute également des résultats et des implications supplémentaires de la solution donnée. Des questions et des solutions soulevées par l'auteur dans cette étude incluent les suivantes: des instances ou le narrateur exige que son enregistrement soit enlevé d'une collection; des instances ou les membres de la famille du narrateur exigent que l'enregistrement de leur parent soit enlevé d'une collection après son décès; la controverse qui survient quand on n'a pas d'autorisation d'utiliser des entrevues qui ont été faites par des organisations ou des individus (ce phénomène est connu sous le nom de l'entrevue 'orpheline'); et enfin le cas ou les collections sont saisis par l'ordre judiciaire.*

Introduction

This paper will highlight solutions found and implemented related to ethical and legal issues in the collection and dissemination of oral history and audio recordings in two projects on two continents over ten years. After a short introduction to an oral history project conducted in London England and to the University of Alaska Fairbanks Oral History Program and its digital arm, Project Jukebox, the following issues will be discussed using examples from the two aforementioned projects:

1. Requests to remove recordings from a collection by narrator
2. Request to remove deceased family member's recording from a collection
3. Three examples of handling culturally sensitive recordings

- Culturally Sensitive Community Stories
- Sacred Songs
- Use of Culturally Privileged Information/Ownership

4. No existing Gift and Release Agreement from organizations
5. No existing Gift and Release Agreement from individual narrators
6. Restrictive Agreements/Court Orders

Background to Two Projects

London, England

The King's Cross Voices Oral History Project (KXV), with three years of funding supplied by the Heritage Lottery Fund, the London Borough of Camden and the London Borough of Islington, commenced in 2004. The goal of the project was to record the voices of those in the various distinctive communities of King's Cross before the regeneration of the area changed the neighbourhoods forever. The three broad areas of interest to the project were recording memories about community, communication and commitment. The author was hired as Project Coordinator. Many of our interviewers were volunteers who had gone through training sessions about the project, recording techniques, interviewing skills, review of the interview guide we had prepared and a thorough review of the legal and ethical responsibilities of making sure interviewers understood what the project was for, where the recordings would be archived and who and how the recordings could be accessed in future. At the end of the project, two hundred and eight individuals were interviewed and just over four hundred and twenty-six hours of recorded memories were archived with the London Borough of Camden Local Studies and Archives and London Borough of Islington Local History Centre.[1] By 2007-2008, all of the recordings and transcript summaries were made available through the London Borough of Camden's library database website (although at the time of writing, the catalogue is currently off-line as legal issues are being reviewed). This was the first audio collection the London Borough of Camden had made available online through their library online catalogue.

Fairbanks, Alaska, United States: The University of Alaska Fairbanks Oral History Program and Project Jukebox

Prior to the 1980s, there was no formal oral history collection in Alaska; instead recordings were scattered throughout the state held by various local history groups, schools and organizations. In the early 1980s William Schneider conducted a survey of oral history recordings in Alaska and the results led to the University of Alaska Fairbanks (UAF) establishing a program or oral history collection as part of the Alaska Polar Regions Collections in the Elmer E. Rasmuson Library at UAF. The mission of the oral history program was, and continues to be, to collect and curate audio and video recordings that related to various aspects of Alaska's history and the people who have contributed to its rich heritage.

1 Camden (n.d.); King's Cross (n.d.).

Today, the collection has over 12,000 recordings. Many of the recordings have been donated to the program and the recordings go beyond just oral history interviews; we have radio collections that were created to share Alaska's history and peoples and collections recorded by history groups or schools for example. Most of these collections came with or without documentation (such as Gift and Release Agreements, transcripts, supporting documentation, context information etc.).

Since 1988, with an Apple Computer Inc. Library of Tomorrow grant, Project Jukebox was born as the digital arm of the UAF Oral History Program. To date over 50 'Project Jukebox' (www.jukebox.uaf.edu) projects have been created. At its inception, Project Jukebox was an innovative way to build a digital record of oral history recordings, associated archival photographs and maps in an interactive format. The first years of its existence was made possible using Hypercard using stand-alone computers where you loaded individual CDs to play the audio, thus the name 'Project Jukebox'. As technology changed so did Project Jukebox delivery and platforms. Hypercard gave way to web-based HTML programs, then came Testimony Software and after a short use of Drupal 6, Drupal 7 is our current delivery system. Today, Project Jukebox hosts hundreds of oral history recordings with associated maps, films, photos and other historical material.

Almost three years ago we began to link .mp3 recordings and associated transcripts to the library catalogue records in WorldCat. Now, anyone in the world with an Internet connection, can listen to a fraction of our collection online.

In 2012 the author was hired as an Assistant Professor and as the Curator of the Oral History Program and in charge of Project Jukebox at UAF.

What follows are examples from the above two projects of the legal and ethical implications in putting oral history recordings online. First I will outline the background and issue at hand, discuss the solution applied and if necessary, discuss the implications of the solution.

Requests to Remove Recordings from a Collection by Narrator

Background and Issue

In 2006, one of the KXV volunteer interviewers interviewed a young woman born in the 1970s in the London Borough of Islington to Bangladeshi immigrants. In her interview, she spoke about the challenges of being one of the first Asian families in the King's Cross area, the struggles her parents had trying to raise their young family in the area and about her work as a young adult with new Asian immigrant children in primary education in the area. The interview was very frank, insightful and would lead the listener to a greater understanding of the struggles of one of the first Asian immigrants to the area. At the time of the interview, the interviewee knew the interview would available in due course online; she signed the KXV Clearance Note and Deposit Instructions which clearly stated:

> The purpose of this Deposit Agreement is to ensure that your contribution to the King's Cross Voices Oral History Project is added to the collections of both Islington and Camden Local Studies and Archive Centres. All of these deposits will be in strict

> accordance with your wishes. All material will be preserved as a permanent public reference resource for use in research, publication, education, lectures, broadcasting and the Internet.

In 2013, the interviewee contacted Camden Local Studies and Archives (CLS&A). A few of her friends had recently found her interview online and she expressed her shock and horror in listening to her whole recording for the first time. She believed she had divulged too much information about where her family lived and continues to live. She expressed that she felt foolish and did not have proper advice or guidance for this interview and it left her feeling uncomfortable and fearful that she had jeopardized her family's safety and security. She requested that her interview be removed from all mediums, especially the Internet and put out of the public domain as soon as possible.

Solution

CLS&A immediately contacted me and the Oral Historian involved in KXV. Although we are no longer employed by the project, CLS&A reached out to and sought our advice. They did not have to as legally, they now housed and curated the collection, but ethically, the involvement of the co-creators of the collection was and is good sound archival practice. We all agreed to immediately remove the interview and transcript summary from the library catalog and contacted another party that also had portions of the interview on their website. They also quickly removed the interview from their website.

Could it be that the interviewee did not fully understand what she was signing at the time? Because the interview was conducted by an interviewee and not me personally, I do not know if the interviewer informed her as she had been trained to do.

Legally, Camden was entitled to be doing with the interview what it was doing, i.e., having the interview available online. But ethically, it was a different matter. The interviewee had expressed a wish for her interview to be taken down and removed from all media and out of respect for her contribution, we should do this. It is never an oral historians' intention to make a narrator feel uncomfortable or wish they never participated in an interviews, or cause embarrassment. Many times we tell people what is going to happen with the interview, they are happy with this until later, when they actually hear it or have other listen to it, then they want it taken down. This is happening more and more as interviews become more widely available online.

However this raises another important point and one that Oral Historian Ron Grele has asserted: "the future does not look bright. The only interviews that will be placed online will be very, very 'safe' or innocuous. We will soon be back to the vanity interviews of the movers and shakers." [2] Do we interview people, asking them to censor what they say to keep it clean and non-offensive, politically correct because it will be placed online, or do we not and let people really say what they want? If they say what they like, will the recording then just sit on a shelf or hard drive collecting dust and never be accessible? Or do we interview people, care for the recording and its preservation for years until they come back and tell us to delete it altogether?

2 Chenier, Elise, 2014.

The recording example given above is of historical value and perhaps in one hundred years it will be the only voice in an archive that speaks to the experiences related. Portions of this person's interview had been used in a radio program and at an exhibition. We cannot remove these so portions of the interview still exist.

We honoured the interviewee's request to close her interview from the public but contacted her again, expressing our concern about erasing history and asked her to consider a few options. One would be to edit the recording and transcript, removing portions she wanted removed and noting this on the recording and transcript. Another option was to place a closed restriction on the interview for thirty years meaning that neither her name, nor the content of the interview would be open until 2043. She agreed to the thirty year restriction. The interview was removed as much as we could from the Internet and the Camden Local Studies and Archives online database. But the recordings and transcripts are still available on the hard drives that are not available to the public in the Camden Local Studies and Archives and Islington Local History Centre.

In this case, all parties were happy with the end result. The interviewee was happy that her interview was not on the Internet, CLS&A and KXV was happy the interview will not be permanently deleted and the archives have clear directives on what is to happen with this recording. The only cautionary note is that situations like this create more administrative problems for the archives as meticulous documentation of the situation needs to be kept on file so that new archivists and curators know that it is restricted and then in 2043 ensure it can be opened.

However, how far can, or should archives and oral historians go in removing interview material, especially when it was made by a family member who has long since passed away? This issue will be discussed in the next example.

Request to Remove Deceased Family Member's Recording From A Collection

Background and Issue

In 2005, a KXV volunteer interviewed an elderly woman whose parents had come from Italy to settle in London in the first decade of 1900. The narrator was born in London in the middle of the second decade of 1900. The family eventually settled in the then Italian area near King's Cross and London. In her interview, and although she does not give specifics, the narrator eluded to well-known public facts that some of her family members had been involved in the London Italian organized crime community for decades. The narrator knew the interview was going to be part of public domain in an archive as was therefore careful not to give details of the family's involvement in crime on the recorded interview. After the narrator passed away, her granddaughter requested a copy of the recording and after listening to it was horrified that her grandmother would talk about her family's criminal past. She requested the interview be expunged from the collection despite her grandmother signing a Clearance Note and Deposit Instructions.

Solution

This incident raised the issue of family members wanting control over interviews recorded by their deceased family members. Legally, CLS&A did not have to do this and the granddaughter had no legal position to ask or try to enforce this plan of action. The agreement was signed by the grandmother who knew exactly what was to happen to the interview and the family has no legal right to renege on her wishes. But ethically, and wishing no harm to come to a family whose members are still alive is something different. The matter was resolved in a similar way to the case above, restrict the material from being used by the public for a set number of years.

In October 2016, I attended a session at the Oral History Association Annual Meeting in Long Beach California where the topic of family members wishing to amend, delete or change testimony given by narrators after they have passed away came up. Noted Oral Historian Sherna Berger Gluck, emphatically stated that it was the narrator and only the narrator who could request changes or deletion; it was up to no one else, not even their family.

That being said, what Gluck poses may not be ethical in other cultures. In Alaska, for example, there are many different native groups, each having their own strict rules about stories, such as who can tell them, who can listen to them, when they can be told and when they can be listened to. Below are three short examples of issues that have occurred and successful solutions implemented with various Alaskan Native cultures.

Three Examples of Handling Culturally Sensitive Recordings

Background and Issue of Culturally Sensitive Community Stories

The author's predecessor, William (Bill) Schneider, conducted an interview with George Ramos for the Wrangell-St. Elias National Park Project Jukebox.[3] Mr. Ramos was born and raised in Yakutat Alaska. He is of the Yéil (Raven) moiety and the L'uknax.ádi (Coho Slamon) clan and he speaks his native language Lingit, a dialect of the Tlingit language. During the interview, Mr. Ramos shared stories about the history of his clan in the Yakutat area, as well as other stories about Tlingit culture. After the interview was done and it was about to placed online, George contacted Bill stating that his interview had caused a controversy in his community. Although Bill felt that George had not disclosed anything that was not already in print, many Tlingit community members felt that Mr. Ramos had told stories that he was not entitled to tell and they were not comfortable with the stories he had shared on the recording about the clan being placed online. Thus, as Schneider rightful pointed out to me in personally communication, it was not the actual story per se in question, it was about the rights of who could tell the story, that was the central issue. The community felt that Mr. Ramos did not have the right to tell certain stories. This may not be something that is as important in western culture, but certainly is in Tlingit

3 http://jukebox.uaf.edu/site7/project/644.

culture. It was our duty, as an archive, to respect the cultural rules surrounding not only the story, but of the rights to who can re-tell it.

Solution

The recording was de-accessioned and removed from the collection. Bill, along with Wayne Howell, re-interviewed Mr. Ramos again and made sure that the clan stories he should not have shared were not discussed. This new interview was then placed on the Project Jukebox.[4] Although the second interview does not capture the same freshness as the first, the information Mr. Ramos was able to share about his culture is still a significant contribution to the Project Jukebox.

Background and Issue of Sacred Songs

In 1972-73, recordings were made with several hundred Elders around Alaska telling stories in their own language. These recordings became known as the Songs and Legends Collection and it is one of the most used collections we have. After the recordings were accessioned into our collection it came to light that there were recordings about the Dene Stick Dance, songs and stories told during a weeklong potlatch memorial that is celebrated bi-annually and sponsored by families of recently deceased family members as part of the mourning process. Again, those that were recorded did so knowing that the recordings would be made public. There are many rules that govern the use, listening or telling/singing of the Stick Dance and when these rules are broken, the community could be harmed. We were asked by Dene members and Elders to remove these recordings.

Solution

These specific recordings do not exist anywhere else, to the best of our knowledge, and thus their preservation is important for future generations as the Dene languages are very endangered. Also, the Stick Dance recordings are only a small part of a larger collection. Instead of restricting the entire collection, only the Stick Dance recordings are restricted and any mention of them was removed from our online library catalog. Should anyone request access to these recordings in future, we would need to ascertain which Dene community they relate to and contact the tribal authority there. This then leads to the quandary of who speaks for who and changing attitudes over the years to making these recordings public, as this also changes over time. To be ethical, community input needs to be sought and responses respected on a case by case basis.

Background and Issue of Use of Culturally Privileged Information/Ownership

Tupou Pulu developed native language learning materials at the National Bilingual Materials Development Center, which, at the time, was part of the University of Alaska in Anchorage. During a recession in Alaska in the 1980s the center was closed and

4 http://jukebox.uaf.edu/site7/p/735.

shortly thereafter, Ms. Pulu passed away. The contents of her office were moved to the archives at the University of Alaska Fairbanks. In several of the boxes were tapes from various Elders Conferences (all conducted in the various native languages) that had been held in Alaska. These were used to help create language materials. It was thought the recordings were Ms. Pulu's and as such, were accessioned into the UAF Oral History Collection. It was later learned that tapes relating to the Inupiat Elders' Conferences from 1976 to 1981 had only been loaned to Ms. Pulu and the rightful owners where in fact the NANA Regional Elders Council through the Inupiat Ilitqusiat Program.[5] The NANA Regional Elders Council passed Resolution 91-08, dated 5 December 1991, demanding all of the recordings be returned to them because:

1. Some Elders had spoken of personal cultural privileged information (ancient beliefs and practices);
2. The recordings only loaded to Ms. Pulu to produce bilingual books in Inupiaq and English and were not for any other use;
3. The donation of the recordings had been done without consent or consultation with the NANA Elders.

There is a long paper trail of negotiations between the NANA Regional Elders Council and the University of Alaska Fairbanks. At that time, the NANA Regional Elders Council had no way of preserving the recordings thus they could all, in future, be lost forever. In the end, only the particular series of recordings relating to the culturally privileged information were returned to the NANA Regional Elders Council. The remaining recordings have recently been transferred out of the UAF Oral History Program to the Alaska Native Language Archive (which did not exist when the recordings were first received by UAF). Researchers looking for Inuqiat language related recordings would find these recordings easier if they were in the Alaska Native Language Archive collection as opposed to the UAF Oral History Program.

In some of the above examples, a Deposit Agreement or Gift and Release Agreements existed. What about in the cases where they do not?

No Existing Gift and Release Agreement from Organizations

Background and Issue

Shortly after the author accepted the position at UAF, she learned that a series of hundredth university anniversaries would be happening over the next couple of years. 2015 would mark the one hundredth anniversary of the Act passed by congress to create a college in Alaska. The cornerstone for the new Alaska Agricultural College and School of Mines was laid and dedicated on July 4, 1915. 2035 would mark the one hundredth anniversary of the college being renamed to the University of Alaska.[6] But there were more anniversary dates: 2017 marks one hundred years since funding was given to actually start construction of the Alaska Agricultural College and School

5 The NANA Regional Elders Council Part of the NANA Regional Corporation, Inc. NANA is a regional Alaska Native corporation that was formed in 1972 under the Alaska Native Land Claims Settlement Act.

6 Bishop, Sam (n.d.).

of Mines; 2021 marks one hundred years since Dr. Charles Bunnell assumed the position of the first President of the College, and 2022 marks one hundred years since the opening of the school with six students enrolling.[7] The first graduate of the college was John Shanly in 1923. Margaret Murie, who later with her husband Olaus, helped found the conservation movement in the United States and were instrumental in the creation of the Arctic National Wildlife Refuge in 1960 with the passage of the 1964 Wilderness Act, was the first woman to graduate from the College in 1924. These anniversaries would also be coming up in the next decade.

The author realized that the UAF Oral History Program had hundreds and hundreds of recordings in their collection that the university had made over the years featuring past University Presidents and Chancellors, distinguished scholars, the opening of various campus buildings and other historic university events. These recordings had been created by the University for the University yet there was no paperwork with almost most of these recordings and therefore legally and ethically they could not be used.

Solution

Realizing that our archive could make a significant contribution to and celebration events the author contacted the UAF legal team. Their solution was to create a License Agreement which states:

The University of Alaska and the University of Alaska Fairbanks hereby grant a perpetual, non-exclusive, royalty free, paid-up, worldwide license to the Rasmuson Library for use of the University of Alaska oral history audio recordings created between January I, 1940 and December 31, 1999 that are currently held by the Rasmuson Library in its oral history collection. The Rasmuson Library is expressly authorized to make these recordings available through its Oral History Program to researchers, writers, scholars, students, and the interested public for access and preservation purposes through any means available, including but not limited to electronic mean and the Internet. The recordings shall be available only for educational and/or non-commercial purposes.

This effectively freed up all of the UAF recordings to now be used for the anniversary celebrations and any other research into the history of the university.

The author has since implemented this solution with many of our other collections that have been donated by organizations over the years. For example, recordings collected in the 1960-80s by the Pioneers of Alaska and the Tanana Yukon Historical Society. Most of the people interviewed have long passed away; the organizations donated the recordings to us long before Gift and Release Agreements were the norm. On many of the recordings, narrators or interviewers say that the recording will be archived at UAF for future generations to learn from. The author has also asked organizations such as school districts that donated recordings to us to sign similar agreements along with Arts Councils and other local history groups. To date, not one organization has declined. These recordings were created and archived with us to be used by researchers and the general public. By signing these License

7 University of Alaska UA Journey (n.d.).

Agreements, it allows us freely use thousands and thousands of recordings that were previously not available to the public as there was no permission to do so.

The largest achievement using this method to date came in 2013 when the author discovered we had one hundred and sixty-three recordings related to the Exxon Valdez oil spill that occurred in Prince William Sound in Alaska in 1989; from the first recording by Captain Hazelwood reporting that the ship had run aground and was leaking oil to the first radio news broadcasts, to the public meetings that continued for months and months thereafter. The recordings contain public radio news coverage of the spill from March 24 to December 31, 1989.

The author discovered the collection had been given to UAF by either a radio station and/or the Alaska State Archives in 1990. Copies were also given to five other institutions/repositories and four radio stations all within Alaska. The letter accompanying the recordings in 1990 clearly set out that the original intent was not to circulate the recordings outside the library and although not stated, this was for reasons of the several legal suits filed after the spill. The author contacted each of the five institutions and four radio stations explaining the Exxon Valdez Oil Spill Project Jukebox and her wish to add a selection of the various radio broadcasts from our collection to the online Jukebox. This would give users a real sense of the growing frustration of the citizens affected by the spill as the days went on and the response of the oil companies at the time. Time had now passed; the court cases had been settled. Every radio station and repository agreed that these recordings should be made public. 2013 was after all the year of the twenty-fifth anniversary of what at the time was the worst oil spill in the world and we were creating a Project Jukebox with several recordings and wanted to include Hazelwood's first call and various days of meetings. Every organization and radio station agreed to sign a License Agreement. Today you can listen to portions of these recordings at http://jukebox.uaf.edu/site7/exxon-valdez-oil-spill-radio-recordings. All of the recordings are now open to the public and will be made available to researchers on request. But what of recordings that were by individuals and not made by or donated by organizations?

No Existing Gift and Release Agreement from Individual Narrators

Background and Issue

In our collection in Alaska, we have hundreds if not thousands of recordings made by individuals. Gift and Release Agreements were not in existence in the 1950s and 1960s and by the 1970s and 1980s, when they started to be used, they only said that the narrator was donating the recording to the University of Alaska Fairbanks to be used for scholarly or research purposes. There was no permission granted to copy or make the recording electronic (electronic or digital did not even exist in the archives then). So, without a proper Gift and Release Agreement from the narrator, how can we digitize make use of these archived recordings?

Solution

Retired US Judge and oral historian John A. Neuenschwander (2014: 83) refers to these types of recordings as 'the orphan interview problem' which he defines as 'work that contains enough originality to be copyrightable but whose owner or creator cannot be found. Such a work could be a film, musical recording or photograph. It could also be an oral history interview for which there is no signed release.' Many of the recordings in the category of 'orphan' contain invaluable information and to make them not available because they might have been recorded in the 1940s and 1950s and it is unlikely that the people are still alive seems a poor practice for making these primarily resources available to researchers. After attending a workshop by Neuenschwander entitled Oral History and the Law at the Oral History Association Annual Meeting in Cleveland, Ohio in October 2012, the author decided UAF would implement his due diligence and fair use doctrine to our collection. Our guidelines became as follows:

- An orphan work is identified in our collection, that is, a recording that has either no Gift and Release Agreement was ever signed or if on was, it does not meet today's standards of allowing us to make it electronically available.
- On a purposely set up spreadsheet we log in the recording number and metadata (interviewer/interviewee name, date, collection, series etc.); all of the next steps detailed are logged in with the date of the search.
- We do an Internet and database search for an obituary looking for any clues to next of kin and their location.
- If any clues are found, follow up steps are next (search for telephone numbers or addresses and write or call the next-of-kin for example).
- Alaska may be geographically big but its population is small; depending on the interview details, contact someone in the village that may know of the narrator or next-of-kin.
- Search to see if there any further archival collections in our institution and if so, search files for contact or next-of-kin details.
- If any of these searches are successful, ask for an updated Gift and Release Agreement to be signed, give copies of the recording/transcript to the family and release to public.
- After a minimum of three solid efforts to find any information and the narrator and next-of-kin, and if this search is unsuccessful, make recording and associated transcript (if there is one) available yet not on the series catalog record that a new Release is needed.

We have been very successful in this practice. The following is just one example:

In October 2014 we were contacted by a researcher who was writing a memoir of her uncle who had been a practicing doctor in Alaska many years ago. She found, on WorldCat, reference to a recording in our collection by a Dr. Arthur Wilson who had been interviewed in 1982. Although this was not her uncle, Dr. Wilson had practiced medicine in Alaska about the same time as her uncle and she wanted to look at the transcript for some historical context for her writing. The author checked the Gift and Release Agreements and they were indeed the old ones where

electronic distribution of the material had not been consented to. UAF Oral History Program staff knew that the interviewer had passed away. This was our first test of Neuenschwander's due diligence and fair use doctrine. A quick Internet search revealed that Dr. Wilson was no longer practicing but his son was also a physician in Alaska. I contacted the information on the website about his address and telephone number. The phone had been disconnected, the practice closed. I contacted the Director of the hospital in the town where Dr. Wilson had practiced along with a few other doctor offices in the same town. Everyone remembered Dr. Wilson and his son but they had both long retired, moved away and no one knew their whereabouts or if they were indeed still alive. Other Internet searches did not reveal Dr. Wilson nor his son. This amounted to five serious attempts to locate Dr. Wilson. We released the transcript electronically to the patron and put a URL to the .mp3 into the library catalog record so she could listen to the recording. In April 2015 Dr. Wilson's great-granddaughter found the recording through WorldCat when conducting family genealogy research. She contacted us, thrilled to find this recording, her family never knew of its existence and she thanked us, on behalf of her family, and expressed how much find this recording meant to her family. Her father was still alive and was more than happy to sign a new Gift and Release Agreement. They were equally pleased to have learned the recording had assisted a researcher.

We have implemented this procedure many times and in many cases, family members have found the recordings and are only too pleased to sign a new Gift and Release Agreement.

But what if you find in your collection, a series of recordings that have been restricted by the creator or have court orders against their use or preservation for a set period of time?

Restrictive Agreements/Court Orders

Background and Issue

In a 2015 effort to try to clean up our work space and sort the many stacked boxes in the Oral History Collation offices, the author found boxes marked 'TAPES (not to be processed until given the go ahead 7/95)." Upon opening the boxes she found 189 cassette tapes made in the 1970s-80s of Alaska Native Elders in various communities in central Alaska. In one of the boxes was a photocopy of an Agreement (styled like a Court Order) signed by the parties who had conducted the interviews. A solicitor had drawn up an agreement in 1996 wherein the two interviewees ordered that the materials restricted for a period of twenty-five years from the date of the agreement but materials could be used by patrons who sought their written permission during that time. The agreement was signed by the interviewees in 1996, thus it was to expire in 2021. The Agreement however had not been signed by UAF nor were there details if this document had been lodged with a court. In checking with the original solicitor and interviewees, no fully signed copy ever surfaced and the author did not pursue searching court documents in the courts. The recordings had never been accessioned into the collection and as such had not been kept in archival storage conditions. The Agreement/Order document, although not clearly signed by all parties and then questionable if actually legally binding or not, did not give us the

right to make electronic versions of the recordings or accompanying transcripts. The condition of the magnetic tapes was poor, having been kept in less than ideal conditions since 1996, and they were disintegrating. I contacted both interviewees asking for updated Gift and Release Agreements so we could digitize the material before it disintegrated further and could be restored and make them available: one party agreed; the other refused. The dilemma was, that by 2021, the audio materials would no longer be salvageable.

Solution

The audio materials were already starting to disintegrate. The author went ahead and digitized all of the recordings because by 2021, they would no longer be in a condition to do so. The recordings were accessioned them into our collection, but they will not be available to the public until the restriction period of time is over, in 2021.

Legally, considering there is no completely signed version of the Agreement and no actual copy of the Agreement, the author believes she would have been within legal rights to digitize and make this collection available to the public. Ethically, and given the complicated background that it is too long to detail in this paper, digitizing and waiting until the twenty-five year restriction was completed was a wiser, more prudent and a less contentious way to deal with this eventual access to this collection.

Conclusion

Although the above ethical and legal issues surrounding the issues of making accessible oral history recordings online by not be completely unique to archives and collections in general, they do present themselves as case studies with solutions that have were selected and proven to be successful over time.

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Guide des bonnes pratiques éthiques et juridiques

DIGITALES

La collection « Digitales » s'intéresse aux rapports entre les sciences humaines et le monde numérique, qu'il fournisse des outils critiques ou qu'il soit un domaine de création.

Produire, exploiter, éditer, publier ou valoriser des données numériques fait partie du travail quotidien des chercheurs en sciences humaines et sociales (SHS). Ces données sont aujourd'hui disséminées sous de multiples formats dans le monde de la recherche et, au-delà, auprès de citoyens de plus en plus curieux et intéressés par les documents produits par les scientifiques. Dans un contexte de mutation fulgurante des méthodes de travail, ce guide aborde avec simplicité des questions et des enjeux complexes auxquels se confronte quotidiennement la communauté des SHS. De leur collecte à leur réutilisation, les données de la recherche sont manipulées, éditorialisées, interrogées, mises en ligne… par tous les acteurs du monde académique qui ne savent pas toujours répondre aux questions juridiques et éthiques ou même, ne parviennent pas à les poser clairement. C'est à eux que s'adresse cet ouvrage, fondé sur des réflexions et des retours d'expériences qui présentent les bonnes pratiques pour accompagner celles et ceux qui s'inscrivent dans la dynamique de la science ouverte.

conception graphique
et illustration de couverture
J.-B. Cholbi

Véronique Ginouvès est responsable des archives sonores et audiovisuelles à la Maison méditerranéenne des sciences de l'homme (AMU-CNRS) à Aix-en-Provence.

Isabelle Gras est conservatrice des bibliothèques au Service commun de la documentation de l'université d'Aix-Marseille (SCD AMU).

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