

**ORAL HISTORIES IN THE DIGITAL AGE
OR
JUDICIAL INDEPEDENCE IS A DISH BEST SERVED COLD: SUPPORT
YOUR LEGAL HISTORY PROJECT!**

**By
F. Richard Lyford
Dickinson Mackaman Tyler & Hagen
699 Walnut Street, Suite 1600
Des Moines, IA 50309
rlyford@dickinsonlaw.com**

1.00 Introduction.

Marc Harding, another Iowa lawyer, and I started doing video oral histories in 2004. We have done ten Iowa Supreme Court Justices, one Eighth Circuit Court Judge, two bankruptcy judges, three magistrate judges and one U.S. District Court Judge. In addition, we were able to interview people who knew former Iowa Chief Justice, C. Edwin Moore, and did a remembrance of him. He was the second chief justice in Iowa after Iowa adopted the merit system of appointing judges and began modernizing the state court system.

In between the interviews, we have done investitures, ceremonial sessions, and an “1863” speech. The following is a compilation of what I have learned over the course of these recordings. Marc does plaintiff’s medical malpractice work and has a state of the art HD two camera digital system. He has volunteered his equipment and services for all we have done.

I hope it is helpful to you.

2.00 Convincing the subject to be interviewed.

Some subjects are flattered at the prospect of recording their judicial career. Others could care less. Oral histories can only be as good as the degree of cooperation received from the subject. The more cooperation, the better they are.

I invite subjects to bring pictures of themselves at various stages of their lives. If there is a previous video interview, excerpts can be used to make a point or show how someone looked earlier in his or her career and what happened early in a career. A glimpse of an earlier time makes the viewer respect that the subject was once young too.

Getting the subject to agree to an interview may be a challenge. I have begged, wheedled, and cajoled judges, sometimes to the point of rudeness. I have enlisted family members and judicial colleagues in the efforts. In one instance I worked on a subject for about three years. Finally, in one conversation I said “Judge, more people may watch the interview than read your opinions.” There was a pregnant pause at the other end of the line. Then a response: “You know, you may be right. Most opinions are important to the litigants only. Ok, I’ll do it.” Bingo! But I have not always been successful; some potential subjects have passed away without ever being recorded. You can only do so much.

3.00 Picking an interviewer.

A good interviewer should know the subject of the interview and the life of the subject well. Charlie Rose is my model. There are some guidelines. An interviewer should not speak more than 20% of the time. The interview is about the subject, not the interviewer. A peer of the subject who is a good friend will help to establish a

comfortable atmosphere. The subject's story should be told with humor and an appreciation of the entire career. If the career has a theme, find it and develop it.

I will suggest as an interviewer someone who has done this before. But I also ask who the subject would like. I avoid being the interviewer myself, although I have done some. After this many interviews, I have developed some respect from prospective subjects, but a peer is going to be a better bet for an interview. I also know a lot of background, so I do feel better able to help the interviewer. I prefer to be the producer listening and watching the interview unfold, offering advice, and working to keep it running smoothly. I can kibitz and help bring out points. If the interviewer is chosen by the subject, work closely to see that the interview goes smoothly. See Preparation below.

4.00 Preparation.

4.1 Use a researcher.

Some interviewers will do their own research. Others don't have time and need help. Basic facts need to be brought out. How many cases were decided? How many opinions? Were there important cases? How long has the judge served? What administrative changes occurred? A law student might be available for help or a former clerk. Drake Law School students have helped me.

If you can pay the researcher something, that is helpful. In any event give a line in the credits to the interview and write a letter of commendation; if the judge will do a letter, so much the better.

4.2 Picking a venue.

You should have a good site in mind when the interview is arranged. I try to avoid judge's chambers. You'll end up dismantling the place to get good camera angles. Note that glass on top of desks should be removed, or the subjects look like they are sitting in a pond. I prefer a courtroom with natural light and an empty bench as a backdrop for the symbolism.

4.3 Bring the props.

I bring real glass glasses or clear plastic glasses. No Styrofoam cups. I was guilty of that once. It looks terrible. A yellow pad for notes is best, not white. White reflects light up into the face and glares on video. Have water in a pitcher or bottles.

4.4 What to wear.

Avoid white. Like white pads, white shirts or blouses reflect too much light into the subject or interviewer's face. A blue shirt and a plain suit for men, the tie should not be "too busy." A small design or large stripes is the idea; fine checks or stripes may twitter on video. Many judges tend to gain weight and don't buy new clothes—a dangerous combination for a good visual appearance. Women judges should also wear plain clothing that does not reflect light and is not "too busy."

4.5 Posture.

Remind the subject that sitting erect with chin up helps.

4.6 Camera Angles—use two cameras if possible.

Marc does medical malpractice cases and videos doctor's depositions. He has state of the art digital equipment. He also has two HD cameras and two wireless

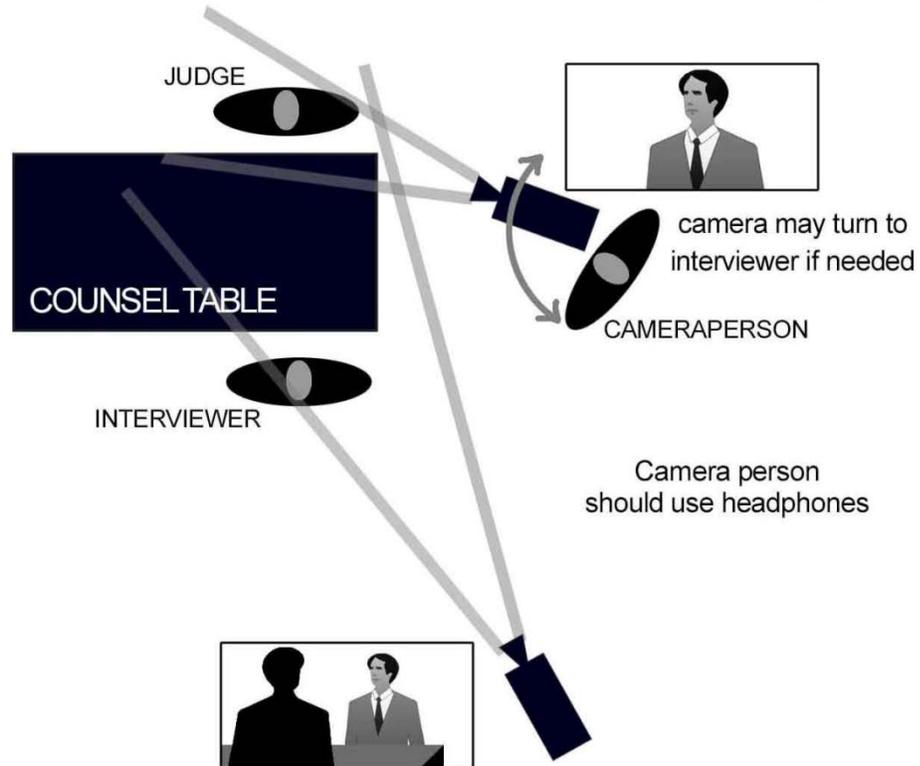
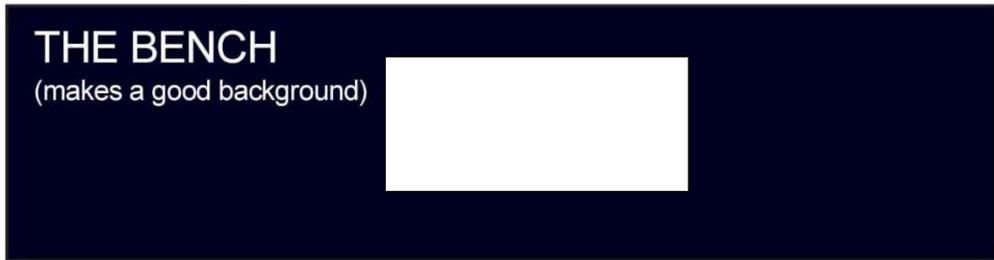
microphones. God bless him. Find someone like him who will donate time and use of the equipment.

A one camera interview takes on the atmosphere of an interrogation. Two cameras provide visual interest. Editing later is more complex, but more than one camera angle makes the interview easier and more enjoyable to watch. As questions are asked, the audio from the camera on the interviewer is used. As responses are given, the other camera audio is used. Both persons can be shown at times for visual variety.

Here is an example of camera angles:

2 microphones-one on each participant—preferred
(or sound on camera)

Both cameras should be on the same side. The tables can be angled to improve camera angles.



4.7 Outline of Interview.

The interview's content can range from a story of family and anecdotes to a scholarly discussion of cases decided and administration of justice. Try for both with a sense of humor. The former is too folksy; the latter is too dry. Keep it as conversational as possible.

I have developed an outline of questions to be asked in an interview. (It is attached) Each interview is different and the areas covered may not occur in the order of

presentation in the outline. It doesn't matter as long as the story gets told. I have thought about taking the same subject matter from several interviews and combining them to specialized projects such as dealing with sense of loneliness or tips for other judges but I have never done it. Food for thought.

If the subject will provide photos from earlier in life, they can greatly improve the final product. If there are earlier interviews available, these can be used as well.

5.0 Post Interview Production.

5.1 Professional Editing.

I have always used professional editing. In this age of digital, people can be made to look better and sound better than they appeared in the interview. Sound glitches can be overcome and the interviews can be made to look really good. It takes a lot of work. I spend hours on this part and have learned so much from Joe Brother of Associate Producers in Des Moines. You just have to grind this part out. See Raising Money, below.

5.2 Title.

While you are listening to the interview, a title will probably come to you.

5.3 Unique Ending.

In editing, I try to put a unique ending on each interview. Magistrate Judge Dick Peterson was a WWII combat veteran. At the end of his, I put the Edith Piaf song that was at the end of "Saving Private Ryan." If someone tells me they have actually watched the DVD, I could find out. By the way, few people watch these. The family will and it is grateful. You are doing this for posterity, including grandchildren. One of the nicest

thank you notes came from a son. I was unable to finish editing before the Justice died. When the son received it, he told me he had watched it and cried. He said he hoped that this would be how the grandchildren would remember the Justice.

5.4 Transcripts and Subtitles.

If possible, see if a transcript can be made from the final product. Shorthand reporters and ones in training are a source of help. In one case a justice suffered from Parkinson's when we did the interview. So, we did subtitles.

5.5 Raising money.

Once you are this far along, you can get an estimate of how much it will cost to edit and print DVDs. I have had good luck raising money. The former law firm of the subject, the federal and state bar associations, former clerks, Inns of Court are all sources. As the program becomes more well-known, people want to be part of the project and support it. Don't be bashful about asking.

6.0 Distribution.

The Iowa Supreme Court has put up on its website all of its former members interviews. The Eighth Circuit does the same. So you can see our handiwork. DVDs are distributed to law schools, state and county historical societies, the supporting donors and, of course, the subject's family. You may also get some really good still pictures from the HD cameras. Make a present of them to provide additional good will.

7.0 Release.

Getting the subject to sign a release is a good idea. One is attached.

8.0 References.

The Federal Judiciary Center issued a pamphlet “Initiating a Federal Court Historical Program” in 2004. It is available on line at:

[http://www.fjc.gov/public/pdf.nsf/lookup/HistProg.pdf/\\$file/HistProg.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/HistProg.pdf/$file/HistProg.pdf)

9.0 Attachments.

9.1 Outline of questions asked

9.2 Release (See the pamphlet cited in 8.0)

10.0 Please feel free to contact me with any questions.

Interview Topics

1. Education – early, high school, college, law school
2. Why wanted to become a lawyer and then a judge
3. Influences on the decision to become a judge
4. Persons who were influential in life (parents, teacher, other lawyers, children)
5. Military service (if appropriate)
6. Early career - when you lost a case, how would you handle it?
7. Path have some bumps in it?
8. How many times did it take to be nominated before appointment – not for embarrassment but for encouragement of others and for how it was handled
9. Loneliness – iconoclastic existence – how do you handle it?
10. Important rulings on the bench
11. Judicial philosophy
12. Anecdotes (e.g., small town practices)
13. Changes seen in your career
14. Decline in civil trials, alternate dispute resolution mediation, arbitration
15. For Chief Justices - role of Chief - how did you handle it? Difference between Chief and Associate Justices and leadership necessary creative collegiality. Relationships with legislature and governor Administrative duties.