

SAVING YESTERDAY TODAY FOR TOMORROW:  
A GUIDE TO ORAL HISTORY  
FOR THE BENCH AND BAR

By Carole Hicke



NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY

Pasadena

# CONTENTS

Preface . . . . .	3
ORAL HISTORIES: MORE THAN JUST THE FACTS . . . . .	4
THE ORAL HISTORY INTERVIEW: PROCEDURES AND TECHNIQUES . . . . .	5
CHECK LIST FOR VOLUNTEER INTERVIEWERS . . . . .	10
THE ORAL HISTORY PROGRAM: ORGANIZING A SERIES OF ORAL HISTORIES . . . . .	11
Appendices	
A. Preliminary Outline for Oral History . . . . .	16
B. Oral History Agreement . . . . .	17
C. Biographical Sketch . . . . .	19
D. Outline of Topics for Interviewing Lawyers . . . . .	20
E. Outline of Topics for Interviewing Judges . . . . .	22
F. Transcribing Procedures for Oral Histories . . . . .	26
Bibliography . . . . .	28



# APPENDIX E

## OUTLINE OF TOPICS FOR INTERVIEWING JUDGES

Full name

Date and place (city, county, state) of birth

### 1. BACKGROUND

#### A. *Family*

Grandparents

Parents: names; place and dates of birth; business, political, and community activities and interests

Siblings

Most influential relatives

#### B. *Childhood*

Community: home, friends, recreation, travel, hobbies, reading

Grammar school and high school: teachers, classes, special events

Part-time work experiences

#### C. *College*

How chosen

Influential teachers and courses; study habits

Friends

Extracurricular activities; part-time work

#### D. *Community*

Military or social service

Impact of major social, economic, and political events: wars, depressions, civil disturbances

#### E. *Law School*

How your interest in the law began

Choice of law school

Professors, courses

Friends, activities, work

Assessment of value of law school

### 2. CAREER AS LAWYER (see also outline for interviewing lawyers)

#### A. *Early experience*

Looking for a job

Bar examination

Beginning salary; comparison with other professions

First clients, cases

Daily routine: working hours, lunch, office location

Description of surrounding community

B. *Evolving career*

Practice specialty: how developed, changes  
Professional and political outlook and affiliations  
Work habits  
Local bar and bench  
Influence of state bar association  
Strong influences on early career: people, events  
Other lawyers, business people, and colleagues with whom you worked  
Professional, economic, and social atmosphere of the local community  
Involvement in local, state, national politics  
Impact of major events: World War II, Korean War, Vietnam War, civil rights movement  
Impact of legislation on your specialty  
Changes in office technology

3. CAREER AS JUDGE (include anecdotes and examples as illustrations)

A. *Transition to the bench*

Appointment  
Political and professional factors in appointment; changes in selection process over the years  
Change in income  
Notification, confirmation hearing  
How the process works: your evaluation

B. *Early experiences*

First day or week on the job  
First judicial experiences  
Associations with other judges and lawyers  
A typical day

C. *Judicial techniques*

Methods of preparation for hearing, trial  
Your approach to trying cases, making decisions  
Working with colleagues  
Significant cases: precedent-making, most interesting, most challenging, most typical  
Characteristics of a good trial  
Changes in rules, such as discovery; replacing "trial by ambush" (before Federal Rules) with  
"trial by avalanche"  
Changes in demands on your court since appointment; court response to overloaded dockets  
Discussion of writing briefs and opinions; significant opinions  
Leadership qualities of judges  
Competence of juries to understand complex law and the judge's directions  
Settlement of cases: procedures, changes  
Changes in society's attitude toward law: more litigation? attitudes toward lawyers  
and judiciary  
Increasing tendency toward raising constitutional issues  
Frivolous case filings  
Changes in types of cases: antitrust, personal injury, intellectual property  
Changes in jury selection  
Scope of case management  
Qualities of a good judge, lawyer, court administrator

[for this section, choose D, E, or F as appropriate]

D. *Judicial techniques: federal district court*

Description of the job: differences between work of district court and appeals court judges  
Your relationship with U.S. Attorney's Office, Public Defender, Circuit Executive  
How your district compares with others (case load, innovative procedures, etc.)

E. *Judicial techniques: federal appeals court*

Description of the job: differences between work of appeals court and district, supreme courts  
Your relationship with Circuit Executive, Judicial Council, other circuit administrative elements  
Circuit courts: intermediary between national and local courts or an arm of national government?  
Intercircuit assignments  
Role of circuit courts in legal innovation  
How you make decisions  
*En banc* cases  
Impact of dissent at circuit court level  
How leadership is exerted: existence of factions on circuit court  
Supervision of district courts  
What makes for a good appellate hearing  
Impact of reversal by Supreme Court

F. *Judicial techniques: state courts*

Appointment or election  
Description of job, lower or appellate court; how the work differs from that of other state courts  
How court rules are made and why they differ  
Court administration  
Relationships with the community, legislature, other courts  
Calendaring  
Problems and challenges of state courts  
Use of court commissioners  
Scope of case management

4. OTHER ASPECTS OF ADMINISTRATION AND PUBLIC POLICY

A. *Colleagues and legal associates*

Unofficial rules of the game  
Freshman period for new appointees?  
Reaching agreement within the court: collegial deliberation, responsibility of opinion writer as broker  
Outstanding lawyers: what are required qualities?  
Post-trial relationships with litigants  
Law clerks: how you have worked with them, necessary qualities, some who were outstanding  
Qualities of a good judge

B. *Judicial administration*

Administration techniques for the court: most effective  
Development of streamlining procedures  
Office of chief judge: advantages and prerogatives; disadvantages and challenges  
Visiting judgeships: usefulness  
Qualities of a good administrator; examples  
Technological changes and their impact  
Increasing numbers of judicial conferences and councils: advantages and disadvantages  
Alternative dispute resolution: arbitration, mediation, special masters

C. *Public policy/judicial philosophy*

How your judicial philosophy has evolved over the years  
Political and social philosophy  
Federal legislation: its impact and implications on your court  
Judicial activism  
Major challenges facing your court and the judicial system today  
Importance of informal contacts — judicial councils, bar meetings, social events — for development of federal law  
Reflections on the American Bar Association  
Relationship between punishment and reform  
Trend toward indeterminate sentencing  
Extent of your court's influence on public policy  
Role of judiciary toward legislation: applying the statute or interpreting it?  
Resolving a conflict between law and conscience  
Effects of new emphasis on ethics in law practice  
Regional differences in judiciary and law practice throughout United States  
Impact of plural equality ("everyone has right not to suffer legal handicap because of immutable characteristics")  
Significance of legal-aid groups

5. COMMUNITY ACTIVITIES AND CAREER OVERVIEW

Professional and other organizations  
Impact of a judicial career on family life and social activities  
Rewards and advantages of your career  
Hardships and pitfalls  
Your major contributions to society and legal history  
Role of today's judiciary