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## Oral History and IRBs: Caution Urged as Rule Interpretations Vary Widely

by **Robert B. Townsend** and **Méiriam Belli**

Just as historians were beginning to think they could safely go back to oral history research without the possibly inhibiting oversight of Institutional Review Boards (IRBs), some are finding progress blocked at the local level. While some universities have agreed that federal regulations were never intended to cover oral history research, many other Institutional Review Boards are holding fast to rules that include oral history under human subject research—despite recent communications to the contrary from the concerned federal government office. As a result, oral historians in academia need to be aware of the policies and practices of IRBs at their home institution, both to ensure that they are in conformity with standing policies and to press for change where needed.

As regular *Perspectives* readers will remember, oral historians seemed to make significant progress on this front, when Michael Carome, the associate director for regulatory affairs at the federal Office for Human Research Protections (OHRP)—which is part of the Department of Health and Human Services—agreed that oral history interviewing activities "in general" fell outside the federal definition of research requiring scrutiny by IRBs (see box on this page for relevant extracts from Carome's letter of September 22, 2003). The AHA consequently issued an advisory statement suggesting that oral historians could now safely conduct interviews without IRB review (<http://www.historians.org/Perspectives/Issues/2004/0403/0403new1.cfm>). The Oral History Association (OHA) also issued a similar statement. In a clarification issued on January 8, 2004, Carome *reaffirmed* the OHRP's concurrence with the policy statement as drafted by the AHA and the OHA (and modified according to suggestions made by the OHRP).

Despite this effort, a preliminary review of current institutional review policies in several universities, conducted by AHA staff and Zachary Schrag (an assistant professor at George Mason Univ.), reveals that oversight of oral history projects remains a confusing patchwork of widely disparate policies and procedures. Some university policies, for instance at the University of Texas, seem to have adopted the position of the OHRP as stated in its communications (and contained in the AHA-OHA advisories) and have excluded, "in general," oral history interviews from IRB review ([http://www.utexas.edu/research/rsc/humanresearch/special\\_topics/oral\\_history.php](http://www.utexas.edu/research/rsc/humanresearch/special_topics/oral_history.php); see box below for text of statement).

In sharp contrast, a number of institutions are following a conservative line set by UCLA, which stipulates that "communication between OHRP and the oral history community does not change the HHS interpretation of the Federal regulations for the protection of human subjects nor does it change UCLA policy on such research." (<http://www.oprs.ucla.edu/human/NewsLetters/20031210.htm>) Still other institutions have remained silent on the issue, further compounding the general ambiguity.

"We are disturbed," observed Roy Rosenzweig, the AHA's vice president for research, "that some IRBs are not following the understanding the AHA worked out with the OHRP. But we feel that we owe it to our members to make them aware that some

universities are insisting on IRB oversight of oral history."

The federal regulations on human subject research were designed for medical and psychological research that could inflict physical and mental harm on human beings, an aim reflected in the professional composition of most IRBs and the semantics of OHRP regulations. These regulations have been framed primarily to address research projects using interviews conducted with questionnaires and anonymous sources, not the type of open-ended, individualistic interviewing normally involved in oral history. Accordingly, the AHA and the OHA have argued that these regulations should not be applied across the board to the humanities and social sciences in general and oral history in particular.

Several legal scholars support this position. For example, C. Kristina Gunsalus—academic ethics expert, special counsel in the Office of University Counsel, and adjunct professor in the College of Law at the University of Illinois at Urbana-Champaign—asserts in a forthcoming article in *Ethics and Behavior*, that oral history, like journalism and English, does not fall within the scope of IRB jurisdiction. She also insists that the related research currently subject to IRB regulations (surveys, informational interviews, etc.) would be best dealt with at the departmental level "rather than [left to] centralized review" (see <http://www.news.uiuc.edu/news/04/1011subjects.html>).

One repercussion of the present uncertainty has been a retreat to a cautionary stance by academic administrators and a certain degree of apprehension among historians doing oral history. By requesting IRB exclusion for oral history research, historians are simply affirming the distinct nature and purpose of oral history research (as compared to medical or even political science, despite interdisciplinary overlaps).

Despite the confusion on some campuses, the AHA continues to support the policy statement jointly elaborated with the OHA ([http://www.historians.org/press/2004\\_06\\_08\\_Council\\_IRBs.htm](http://www.historians.org/press/2004_06_08_Council_IRBs.htm)) and agreed upon by the OHRP. However, given the legal uncertainties and complexities, the AHA cautions researchers doing oral interviews—especially graduate students for whom the stakes are particularly high—to carefully consult the institutional policy of their universities, as well as their department chairs, before undertaking fieldwork. This is imperative for all academic historians using oral interviews for their research, regardless of whether such interviews are the core of their work or only one source among many.

However, caution alone will not suffice. Historians—both as individual researchers and collectively as departments—must actively work within their universities to raise awareness about the potentially harmful effects of applying standards intended for a very different type of research to oral history. One example of such awareness-raising engagement comes from Mary Marshall Clark, director of the Oral History Research Office (OHRO) at Columbia University, who expressed optimism about maintaining what has historically been "an excellent informal working relationship" of mutual respect between the OHRO and the IRB office. "We look forward to clarifying this relationship in the next few months as we determine a formal policy of guidance for the creation and use of oral history interviews that acknowledges both our concerns and our independent authority," Clark said.

The AHA's Research Division is currently undertaking a more systematic survey and analysis of IRB policies at a wide range of colleges and universities and will present a detailed report in a spring 2005 issue of *Perspectives*.

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