

WOU Institutional Review Board

General Policy for Documentaries

Approved February 25, 2010

In Fall 2009, the Western Oregon University IRB, met to develop a policy with respect to IRB oversight of films and documentaries. To this end, the committee considered the current OHRP definition of research as specified below:

The Code of Federal Regulations (45 CFR 46.102 (d)) defines research as a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

After review of current documentary procedures the IRB concluded:

Documentary and film projects that

- are intended to tell individual stories as a form of artistic expression

AND

- are not being used as a data gathering process

AND

- are not meant to incorporate generalizable knowledge

DO NOT meet the OHRP definition of research, and therefore do not require IRB oversight.

Although documentaries and films may not meet the definition of research, this neither relieves documentary makers of ethical responsibility nor does it excuse them from the obligation to obtain informed consent to participate. Given that intellectual property (personal histories and experiences) is being obtained from the participants, many of the same concerns of participant consent for research apply. Individuals being filmed should be provided with information about the purpose of the project, their rights, possible benefits and risks of participating, whether there is to be compensation and how much, and information about whom to contact if there are questions. Individuals who do not speak English should be presented with documents written in a language understandable to them.

If there is a possibility that the information filmed in a documentary at some point could be used for research purposes, then the individual producing the documentary should receive IRB approval prior to filming, as it is not possible to grant approval after a project has been conducted.

Recommendation for courses which incorporate filmmaking and documentary production

The instructor should complete an IRB application for the course. The application should be completed such that projects approved will meet the requirements for an expedited review. Such projects should meet the following criteria:

1. No more than minimal risk for individuals being filmed. Minimal risk means that the stress and risk of participating is not greater than would be expected in day to day life.
2. Given the difficulty of protecting the identity of individuals portrayed in film, documentary projects seeking expedited review should not include “*sensitive content*” for which participants and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the participant’s financial standing, employability, insurability, reputation, or be stigmatizing.
3. Individuals filmed do not include “*sensitive populations*”. Currently the IRB includes the following in its definition of “sensitive populations”: individuals under the age of 18 years, individuals who are incarcerated, pregnant women and individual with cognitive disabilities.

Students who wish to film “sensitive content” and/or “sensitive populations” would not be covered under the instructor’s IRB application for the course. Such students are directed to complete a separate IRB application for their individual projects.

Each individual project included in a course IRB application is expected to include a consent document that provides individuals being filmed with information about the purpose of the project, their rights, possible benefits and risks of participating, whether there is to be compensation and how much, and information about whom to contact if there are questions. Contact information should include the course instructor as well as the WOU IRB. Individuals who do not speak English should be presented with documents written in a language understandable to them. For a sample documentary/film release form, see below.

Sample Documentary Informed Consent and Film Release Form

Informed Consent

[Insert description of project]

For this project, you are being asked to have your voice and image recorded to video. During filming you may be asked questions. You are free to not answer any questions you may find objectionable, or to request that recording be stopped at anytime. Your participation is completely voluntary.

Additionally, you may choose to have your name associated with the filming by initially your consent below.

____ I agree to allow my actual name to be included in this project.

Or

____ I do not agree to allow my actual name to be included in this project

This project has been reviewed and approved by the Western Oregon University Institutional Review Board (i.e., a committee that reviews the ethics of research projects).

You will be provided with a copy of this form.

If you have questions or concerns, contact:

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503.838.8296

Or

Western Oregon University Institutional Review Board
c/o Provost's Office
Western Oregon University
345 N Monmouth
Monmouth, Oregon 97361B
503.838.8271

Video Shoot Release and Limited Liability Release Form.

I, the Undersigned, hereby acknowledge that I am participating in a motion picture ("Film") being produced by Shaun Huston & _____, ("Producer").

SHOOT RELEASE: I hereby irrevocably grant to the Producer, its licensees, agents, successors and assigns, the right, but not the obligation, in perpetuity throughout the world in all languages and in all media, now or hereafter known, to use (in any manner it deems appropriate, and without limitation) in and in connection with the Film, by whatever means exhibited, advertised or exploited:

Circle and complete all that apply.

1) My appearance in the Film, still photographs of me, recordings of my voice taken or made of me, any music sung or played by me, and my actual or fictitious name; and/or

2) The appearance of the location or property known as:

_____, of which I am the owner and/or manager with the power to so grant.

Furthermore, I acknowledge that the Producer, or its assigns, may shoot behind the scenes footage and still photos, for use in the Film, and I hereby irrevocably grant to the Producer, its licensees, agents, successors and assigns, the right, but not the obligation, in perpetuity throughout the world in all languages and in all media, now or hereafter known, to use (in any manner it deems appropriate, and without limitation) in and in connection with the Film, by whatever means exhibited, advertised or exploited.

LIMITED LIABILITY: Furthermore, I understand that during my participation in the motion picture, I may be exposed to a variety of hazards and risks, foreseen and unforeseen, that may include, but are not limited to, personal injury, property damage and death. To the fullest extent allowed by law, I agree to waive, discharge claims and release from liability the Producer and its agents, from any and all liability on account of, or in any way resulting from injuries and damages. I understand and intend that this assumption of risk and release is binding upon my heirs, executors, administrators and assigns, and includes any minors accompanying me on the Project.

Name

Date

Signature

Address

_____ (phone)

_____ (e-mail)