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# Sand Creek Massacre Site Oral History

## Protecting Tribal Intellectual Property

**I**n the early dawn hours of November 29, 1864, more than 700 troops under the command of Colonel John M. Chivington attacked an encampment of Cheyenne and Arapaho men, women, and children as they slept in their lodges on the banks of Sand Creek, Colorado. By midday, the soldiers had slaughtered more than 150 of the unarmed tribal members.

The story of the Sand Creek Massacre—one of the most defining events in the history of the Cheyenne and Arapaho people and of U.S. federal/tribal relations—is well known from a multitude of documented sources (NPS 2000). The Cheyenne and Arapaho oral histories of the massacre are not as well known, at least to the non-Cheyenne and Arapaho world. In 1999, however, an oral history project designed to assist the efforts of the National Park Service (NPS) to precisely locate the Sand Creek Massacre site began recording a small number of the existing Cheyenne and Arapaho oral histories about the massacre that are indelible in tribal memory. The recording of such sensitive and proprietary intellectual property raised many issues related to the control of oral information—especially in a federal and very public context—and about the importance of federal/tribal collaboration.

On October 6, 1998, President Clinton signed the Sand Creek Massacre National Historic Site Study Act. The Act directed the NPS to identify the location and extent of the massacre site, and to determine the feasibility of designating it as a unit of the national park system. In preparation for the passage of the Act, Colorado Congressman Bill Schaffer wrote to NPS Director Bob Stanton clearly

stating Congress' expectation that a collection of tribal oral histories would be a primary line of evidence to be used in NPS efforts to locate the massacre site. In response to Congress' direction, as well as to NPS policies, previous Sand Creek Massacre research efforts, and consultations with the Cheyenne and Arapaho tribes, the NPS worked with the tribes to collect oral histories as a major component of the effort to locate the site.

Cheyenne and Arapaho tribal representatives' immediate concern with participating in an oral history project revolved around the confidentiality of sensitive information. They were particularly concerned about the potential for NPS appropriation and publication of tribal intellectual property. Before the project began, tribal and NPS representatives drafted a memorandum of understanding (MOU) regarding government-to-government relations in the implementation of the Act, including, among other provisions, language on the collection of oral histories. The MOU specified that methods and protocols for the collection of oral histories would be developed jointly by the NPS and the tribes, and that the tribes may impose appropriate

*Hubert Warren, Northern Arapaho Sand Creek Oral History Project team member, interviewing Josephine White. Photo by Sara Wiles.*



confidentiality restrictions to protect sacred or culturally sensitive matters. In addition, each tribe would be provided with originals or copies of all materials produced by the oral history documentation.

Subsequent to the development of the MOU, some of the involved tribes also entered into cooperative agreements with the NPS, allowing funding directly to each tribe that wished to conduct its own oral history project. The Northern Cheyenne and Northern Arapaho Tribes decided to enter into cooperative agreements and conduct their oral history projects internally, while the Cheyenne and Arapaho Tribes of Oklahoma agreed to have the NPS conduct the oral history work in close cooperation with tribal representatives. Through these flexible arrangements, each tribe was able to oversee the collection of oral histories from tribal members by the most culturally appropriate means.

The Northern Arapaho Tribe determined that tribal members would conduct their own oral history project. The tribe entered into a cooperative agreement with the NPS, and initiated the Northern Arapaho Sand Creek Oral History Project in April 1999. The tribe requested NPS assistance in conducting a brief oral history training workshop for tribal project representatives, which was followed by interviews with two elderly tribal members who are knowledgeable about the Sand Creek Massacre, as well as a briefing of the Tribal Business Council on the project and obtaining their approval to proceed. Tribal representatives posted newspaper and public notices of the training and invited tribal members at large to participate in the training and provide oral history accounts.

The project began with team members explaining the extremely sensitive and sacred nature of the stories that were about to be elicited from Sand Creek Massacre descendants and the importance of the project to the Northern Arapaho people and future generations. NPS and tribal personnel then held training dealing with oral history methods for project team members. After a presentation to the Northern Arapaho Business Council, at which the Council members expressed full and enthusiastic support for the oral history project, interviews were conducted with two tribal members.

Project team members interviewed, in the Arapaho language, a direct descendant of a Sand Creek Massacre survivor, and, in English, a knowledgeable woman who is among the oldest living tribal members. Both interviews were taped and the interviewees photographed specifically for the purposes of the oral history project and tribal archives. Notes were kept as the interviews were being taped. Both interviewees were compensated for their time by the tribe through the funds provided by the cooperative agreement.

In July 1999 and February 2000, project team members interviewed two more tribal members. In September 2000, NPS staff joined Northern Arapaho Sand Creek Oral History Project team members to transcribe the tapes, with interpretation and editorial assistance from the Arapaho project team. Again, project team members initiated the session with a discussion of the sanctity of the stories told by the interviewees and a reminder that the most important underlying premise of the Northern Arapaho Sand Creek Oral History project is to protect the interviewees and their stories. Participants were reminded that the first people the stories belong to is the interviewees, and that their intellectual property rights must be guarded at all times. To help ensure this confidentiality, the tribe applied copyrights to all photos, interview tapes, and transcripts. The interviewees and project team members felt that establishing copyright would allow the information from the interviews to be used by the NPS for the purposes of the site location and special resource studies, while still ensuring that the information belongs to the people who provided it. The Northern Arapaho Tribe retained all original tapes and photos for tribal archives, with copies provided to the NPS for inclusion in the project report and to the State of Colorado for state historical archives. With these protection measures in place, the tribe felt comfortable with the publication and public distribution of tribal members' oral histories of the Sand Creek Massacre.

In contrast to the Northern Arapaho Tribe, the Southern Cheyenne Tribe elected not to enter into a cooperative agreement with the NPS for the collection of oral histories. Instead, it asked the NPS to collect the oral histories in collaboration with tribal representatives. The project

*Sand Creek.  
Photo by Tom  
Meier.*

was conducted during two week-long sessions in June and August 1999, from a home base at the Cheyenne and Arapaho Elderly Nutrition Center in Clinton, Oklahoma. Tribal representatives initiated the oral history project by posting public notices about the project and asking people to come to the center and contribute their stories if they wished. In addition, specific individuals previously recommended as potentially knowing stories of Sand Creek were contacted and asked to provide interviews.



The NPS, the State of Colorado, and Southern Cheyenne tribal members recorded a total of 12 interviews during the two sessions. Tribal representatives explained the purpose of the project and its benefits to the tribe at group meetings and to individual interviewees, and interviewees were asked on tape if the stories they provided could be transcribed and reproduced in a public document. Any information or statements that interviewees wished not to become public were not recorded or documented in any way. Each interviewee was given a small gift based on customary practices, including cloth, fruit, tobacco, and other items.

Following the interviewing sessions, NPS staff transcribed the tapes and sent copies of the written transcripts to the official Southern Cheyenne representatives to the site location project, and who also oversaw the oral history project. Interviewees then had the opportunity to review and edit their statements before publication to ensure the accuracy and confidentiality of sensitive information. Following final transcription, original interview tapes were returned to each interviewee and copies were provided to the NPS and the states of Colorado and Oklahoma for their official historical archives. Through this collaborative oral history project process, Southern Cheyenne tribal representatives felt comfortable that individual tribal members' intellectual property had been protected and that the information presented in the NPS final report was acceptable for public distribution.

In June 1999, the Northern Cheyenne Tribe entered into a cooperative agreement with

the NPS for collecting oral histories and other purposes.

The project began with the tribe's Sand Creek Descendants Committee creating a list of 33 potential interviewees who may have stories of the massacre. This list was not intended to be comprehensive, but rather to serve as a baseline from which to begin. It was fully expected that all interviewees, even if they did not have stories themselves, would recommend other knowledgeable people, and the list would grow.

In December 1999, tribal members initiated the project by video taping interviews about the Sand Creek Massacre with several knowledgeable tribal members. The following month, NPS staff joined Northern Cheyenne representatives in Lame Deer, Montana, to assist Sand Creek Office staff with the remaining interviews of individuals identified by the Sand Creek Descendants Committee. The project began with a day of background preparation, including discussion of the appropriate protocols in consulting with highly respected elderly tribal members.

Of the original 33 potential interviewees identified by the committee, all but eight were contacted, in addition to nine additional people who were not on the original list who were also recommended during the course of contacting people. Of all the people contacted, a total of 12 provided stories that were audio taped during the week. Five additional interviews were recorded on videotape during the tribe's work in December 1999, and one written narrative, along with a painting depicting the massacre, was contributed, for a total of 18 recorded stories, narratives, and interviews.

Nearly all interviews were arranged in advance, with tribal and/or NPS project members visiting the potential interviewee once to explain the project and ask if the person would like to give a story, and if so, returning at a later date to record it. Small gifts of food, cloth, and tobacco were given to each person asked, regardless of whether or not they had a story or wished to tell one. The tribe also provided small cash honoraria to individual interviewees.

A portable tape copier was brought along during the interviews so that, at the completion of the interviews, a copy of the tape could be immediately provided to the interviewee. Providing copies of tapes at the time of the interview helped to establish some level of trust about the project, because many people mentioned that they had been interviewed in the past for other purposes and had no idea what became of the material. Copies of tapes were also made for the NPS, with the original tapes being housed at the Sand Creek office. All interviewees were asked on tape for permission to use the stories in the NPS report to Congress and all interviewees gave approval. No particular question format was followed, showing respect to storytellers by allowing them to simply tell their stories uninterrupted. At the conclusion of the story, more specific questions were asked if appropriate. Four stories were told entirely in Cheyenne and the remaining eight were told in English, sometimes mixed with Cheyenne.

A second oral history project session was scheduled in Lame Deer, Montana, in February 2000, to begin the collaborative process of transcription of the taped stories recorded in the Cheyenne language. Northern Cheyenne Sand Creek office staff were extremely concerned about the accurate interpretation of the Cheyenne language stories when they were translated into English. Some elderly Cheyenne speakers expressed concern that, as has often happened in the past, the rich meanings of the Cheyenne words would be lost with too casual an approach to translation. Some people talked about how the Cheyenne people have been misrepresented in treaties and other legal processes because of interpretations of Cheyenne in English translations that do not convey the real meanings of the Cheyenne language. Much of the Cheyenne language used in the stories was an old, traditional form of the language requiring laborious translation.

The first transcription of 30 minutes of one Cheyenne language story, for example, took 13 hours to complete.

After all the stories were transcribed, NPS and/or tribal project members returned to visit all interviewees and brought hard copies of all transcribed stories for them to review, along with a laptop computer to be able to make any editorial changes on the spot. The Sand Creek office also developed an additional written consent form to ensure that the stories were only reproduced with each individual's complete knowledge and approval. Original consent forms and original tapes were retained by the Northern Cheyenne Sand Creek office, with copies provided to the interviewees. Copies of tapes and consent forms were also provided to the NPS and the Colorado Historical Society.

Each tribe involved in the Sand Creek Oral History Project approached the documentation of tribal oral histories in a slightly different way. Through flexibility and attention to a collaborative process between the tribes, the NPS, and the State of Colorado, project members were able to ensure that oral histories were collected in as sensitive and culturally appropriate way as time and funding permitted. Equally important, individual tribal members' intellectual property was protected as much as possible in the context of a very public project in which the oral history transcripts were both published and posted on the Internet. Through this process, the documentation of tribal oral histories expanded the record of the Sand Creek Massacre, adding not only to the knowledge of the American people, but serving as a lasting legacy for Cheyenne and Arapaho youth and future generations.

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#### References:

- United States Department of the Interior. Sand Creek Massacre Project, Volume One: Site Location Study. National Park Service, Intermountain Region. Denver, 2000.
- United States Department of the Interior. Sand Creek Massacre Project, Volume Two: Special Resource Study (SRS) and Environmental Assessment (EA). National Park Service, Intermountain Region. Denver, 2000.

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