

[slide#1 displaying] Good morning and thank you for joining me. I'm presenting today on the dual recorded legacies of the Grateful Dead: the official legacy of studio and live albums, controlled by the band and their record companies, and the unofficial legacy of concert recordings, controlled by the fans. The Dead's improvisations, juggling of the setlist, segues between songs, and rearrangement of songs gave birth to an entire new genre—the jam band. At the time, they were the only ones, their uniqueness summed up by the tagline “there is nothing like a Grateful Dead concert.” Because of the unique nature of the Grateful Dead's show, the fans wanted recordings of every concert. Because of the nature of the record industry, especially during the band's lifetime, that was never going to happen through official channels. Eventually the band officially sanctioned the practice with the creation of the taper's section in 1984, but the conflict between official and unofficial legacies reared its head again with the Thanksgiving Day Massacre in 2005.

On November 22, 2005, all Grateful Dead shows were removed from the Live Music Archive. There was a massive backlash from the fans and nine days later the recordings were reinstated, though soundboard recordings could only be streamed, not downloaded. The fallout was the result of poor communication between band members, and between the band and fans, as well as the grey legal area of live tapes. I have published a paper in *Popular Music and Society* covering the incident in depth, but today I'm going to focus more on what it meant in terms of the band/fan and official/unofficial recorded legacy cooperations and conflicts. I'm going to talk about how tapers filled in the gaps between official releases, why official live albums were not enough for Deadheads, the lessons learned by the Dead's successors, and why live concert recordings are both great things to have, and are never going away.

The Grateful Dead ended up creating the template for jam bands: the live performance is far and away the most important aspect of the band, selling and even recording studio albums is a distinct second. However, as the unintentional originators, they were making it up as they went along, and were sometimes slow to adjust to reality. The fact that no official taper's section was created until 1984 is hugely significant and foreshadows the mess with the LMA. They played a unique show, the show made their career, and the tapes let people hear it. However, it took 19 years for them to officially pave the way for tapers to record, despite the fact that stories circulate of band members giving individual permissions to record since at least the early 1970s. That level of equal partnership with the fans simply didn't exist in the rock music business paradigm of the times, and the lack of a unified platform for the fan's voices meant that change was slow in coming. I think the Grateful Dead failed to sanction taping earlier because they were too into the traditional recording artist mindset—they controlled what got released, and for the sake of that control, they failed to guarantee support for audience taping as a matter of official policy

Of course, there was an official alternative, the live album, but that opens up a whole other can of worms. *Live Dead* [slide#2], while much loved, was known to fans as only pieces of the puzzle. Even if it had been a whole show instead of excerpts from three, it would still be just how things had gone that one night. In the vinyl-only era, things like non-stop second sets and 48 minute versions of the song Dark Star were never going to fit. Even *Europe '72*, a triple live album, doesn't attempt to contain any of the epic Dark Stars or Other Ones from that tour. And in addition to the space limitations, neither the technology nor the record industry of the time supported a constant release of live albums. But that's essentially what Deadheads wanted: multiple documents at a much faster rate than the band could supply them, and entire shows, which the band couldn't supply at all. Eventually the invention of the CD solved the run time

problem; as soon as the technology became viable, the band started issuing whole concerts. *One From The Vault* came out in 1991 and the first volume of the *Dick's Picks* series came out in 1993. But for the decades before, tapers filled the gap, and they took their job seriously. Anyone willing to not only haul *this* [slide#3] in with them, but somehow hide it, and the accompanying microphones and cables, from security, is clearly dedicated to their cause. That dedication continued unflaggingly in the CD era; though complete shows were now being issued, they still weren't *all* of the complete shows.

The Dead were well aware of their unofficial live legacy by 2005, as evidenced by the Taper's Section and their full show releases. They were the first band to really partner with their audience in that regard. So, why did they fail so badly when it came to the Archive? For one thing, any official policy on the Archive was clearly muddled. So, as the tapers had filled in the gaps in the band's legacy by recording shows that were desired but not offered officially, the trading community filled in the gap caused by a lack of coherent official policy with their own unofficial policy, and the extent the LMA allowed show recording trading to grow to—a first generation copy for everyone instantly available worldwide—clearly caught them by surprise. Still, I think it wasn't the technological change that the internet brought about that caught them flat-footed so much as the cultural change. In place of a few fans talking to band members here and there was a public platform that allowed tens of thousands of voices to join as one in a matter of hours. What sank the Grateful Dead was that they tried a wait and see approach, and when they decided to remove access, they failed to take into account the voice that had gathered, and the attempt to reclaim the territory was a predictable disaster.

The lesson is that the audience is faster and more responsive than the official entity, and more comprehensive. And they always will be, for the Grateful Dead and any other band,

because there's just magnitudes more people involved. Even if they happen to release *someone's* favorite show [slide#4], even if they release a slate of fan favorites [slide#5], even if they release the show that one guy you know likes for some reason [slide#6], they're never going to put out everything that everyone wants.

The closest the Grateful Dead have come to trying to do so so far was the release of the complete Europe '72, and even that took until 2011 and was originally limited edition. Plus it was an absolutely massive project that took a long time to prepare, and was based on what might be the most universally acknowledged hot streak in Grateful Dead history; one of the few times you could release two entire months' worth of concerts and have most of the fanbase salivating. In other words, not the kind of thing the band will try too often.

And even then, even with a full release of the epochal 1972 European tour, the unofficial legacy still stands tall. [slide#7] This is from the discussion thread about the release on Lossless Legs, the preeminent Grateful Dead-centric bittorrent tracker site. That's 52 pages of complaints and arguments over whether they'd done the sound right, still leading some people to prefer the unofficial soundboard sources. Incidentally, I would like to do a point by point comparison of the issue, and will gladly accept donations toward the \$450 it will cost me to purchase the box set.

In all seriousness, though, that thread right there is the ultimate example of why the unofficial legacy of the Grateful Dead, of any band, is never going to go away. The technology finally caught up. The band finally made a commercial move on its fans' well-known desire to have every show. The complete patch they chose to release is probably the most in-demand mass section of the Dead's performances, with only May 1977 even close to competition. And

still—*still*—it's not good enough for the fan community. Still, there will be an unofficial counterpoint to the official legacy.

Because of the well-known size and devotion of their audience, their huge pop culture footprint, and the consequent public nature of events like the Thanksgiving Day Massacre, the Grateful Dead are, for many, the face of the taped concert, and of tapers. As the years went on, Grateful Dead tapers continued to set the curve for unofficial live documentation, as this discussion in a Dimeadozen posting for a Sonic Youth concert shows [slide#8].

But as that discussion also shows, the Dead far from the only ones; discussions of a band's fan-generated legacy have implications across infinite artists, genres, and eras. I can still remember my surprise when I dipped my toe into bootlegs with this [slide#9], and then tape trading, as a teenager. I very quickly learned two truths about unofficial concert recordings: bands and labels can never stop them from happening, and they are artistically valuable.

Take that Floyd bootleg for instance. Pink Floyd's complete dearth of 1970s live recordings neglects an important part of the band. The official legacy is of band that used the studio to its fullest potential to create carefully assembled creations. The live incarnation was a different beast altogether, a muscular rock unit that could play ferociously and jammed, wholly transforming some songs. This item's recording was unauthorized, its sale illegal, and even trading it for free operates in a grey area. If everything had functioned the way it was supposed to according to the law; if Pink Floyd and their record company had maintained sole control over every note of their music that made its way to the public, if security had busted every taper or if the tapers had just obeyed the instructions not to record, this would've been gone forever. There would be no live Pink Floyd documented anywhere in their best period. No one who wasn't

there would ever know. Personally, I would consider that quite a shame. Case in point: I never got to actually see the Dead live, but through the tapes, I'm here presenting at a Grateful Dead conference.

And while the Grateful Dead became taper friendly, created, in fact, the entire idea of being taper friendly, don't forget it took 19 years for them to actively OK their unofficial legacy by creating a taping policy and taper's section, or that front of board tapers *still* broke the rules by setting up in front of the soundboard when the taper's section was established behind it specifically to keep the microphones out of soundman Dan Healy's line of sight, to record the way they wanted to. And the soundboards, which make up most of the listenable recordings from the 1960s to the late 1970s, weren't supposed to get out either. The bulk of the Grateful Dead's live documentation has origins every bit as clandestine as that Floyd boot.

Still, their eventually coming to terms with the fans' desire for a record of every concert, and the fact that they showed the music industry that doing so was a workable proposition, have had far-reaching effects on their successors. In 2000, Pearl Jam released their entire fall tour on CD. Sonic Youth and Dinosaur Jr. started to allow taping in the early 2000s. But none of that compared to the Grateful Dead's effect on the wave of jam bands that followed them, first Phish in 1983, then a multitude of artists in the early 1990s. Not only had the Dead defined the genre, but they had established its parameters for success. Though all of those bands made records, they were focused on the live show almost from the beginning, and they had learned from the Grateful Dead that they should allow people to tape their concerts. They also came of age with the internet, and were prepared when the LMA came calling. None of the big name bands that declined to be archived to begin with took a hit to their reputations. I wrote to Galactic, Phish, and Medeski, Martin, & Wood to ask why they had declined to be included in the Archive, but

received no response. Regardless of their reasons, the history of unofficial concert recordings tells us that, while circulation of recordings for those artists may be smaller without the convenience factor of the LMA, and smaller still for bands that aren't taper-friendly at all, like the aforementioned Pink Floyd, it will still go on, and the fans only stand to gain from it. The artists as well, if they put on a concert good enough that even a just decent audio only record of it makes people want to attend.

Finally, above and beyond issues of legality and the wishes of the artists, the question is: can the bootlegs be contained? Will the artists ever actually be able to maintain sole control over their legacy? For that, I refer you to the policy note for Dimeadozen, my non-taper friendly artist bittorrent tracker of choice. [slide#10] “BTW, the ROIOs [recordings of indeterminate/illegitimate origin] exist, you can't make them vanish. So, why not let your fans get them for free from one another instead of having to purchase them from commercial bootleggers on auction sites?”