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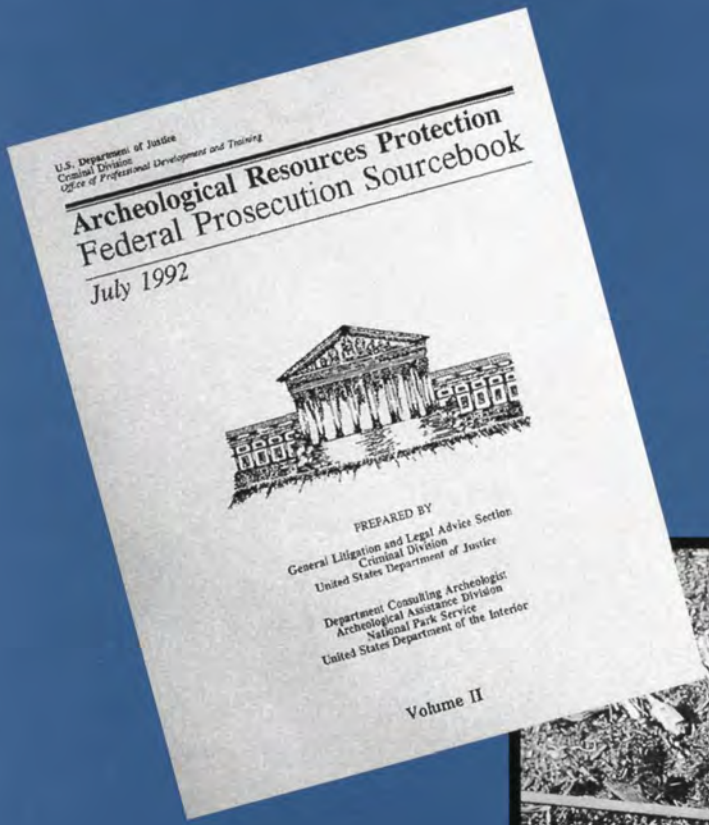
Looting

A Global Crisis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Archeological Resources Protection
Federal Prosecution Sourcebook

July 1992

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Cover: top left, manual used in training archeologists and law enforcement offcers, see article p. 15; bottom left, items confiscated following search warrants executed at the homes of two men subsequently convicted of violating the Archaeological Resources Protection Act at Petersburg National Battlefield, VA, NPS photo; right, mock looting of a Native American ceramic pot, photo by Robert D. Hicks.

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To CRM readers —

I recently stepped down as CRM editor, following a very long and enjoyable association with this magazine. Now in its 25th year of publication, CRM enjoys strong support within the National Park Service and the Federal Government, and beyond. As CRM reaches the quarter-century mark, I hope that CRM will become even more relevant to cultural resource managers and preservationists, and that its database will grow and become accessible to many more users who are yet to discover the wealth of information it contains.

For many years, the success of CRM was credited to my efforts. To be sure, I devoted a great deal of time and energy to this activity. But the credit really goes to the hundreds of authors and other contributors who have made CRM an important part of the literature available to educators, students, researchers, practitioners, and you, the readers, all of whom have confirmed the need for the information that we have published over the years. I am certain, too, that many of the articles that we received would not have been written, much less published and read, were it not for the outlet provided by CRM. In the first issue of CRM Bulletin, as the magazine was called when he created it in 1978, former National Park Service Associate Director Ross Holland said that he hoped that the Bulletin would continue. Well, it has continued for almost 25 years, and I will watch with interest to see how the magazine evolves in the coming years.

I wish to thank the many people who encouraged me and helped me develop CRM from a quarterly bulletin — first edited by Doug Caldwell and then by Mary Maruca — for park cultural resource managers, into a magazine that now additionally serves our many preservation colleagues in this country, and in Canada and many other foreign nations. I am particularly grateful to NPS Cultural Resources program leaders Jerry Rogers, Rowland Bowers, and Kate Stevenson for allowing me to devote the time necessary to produce the magazine. My thanks also to Karlota (Kari) Koester who served as my assistant editor for many years; to NPS historian Harry Butowsky who was an enormous help in many ways; to NPS printing specialist Jerry Buckbinder who facilitated the printing process; to Jan McCoy of McCoy Publishing Services, who takes the myriad articles and illustrations we receive and turns them into well-organized, attractive magazines; to NPS archeologist Terry Childs for supporting the CRM database and ensuring that it is accessible to the public; and to NPS secretary Denise Mayo for maintaining the CRM mailing list and responding to numerous requests for copies and other inquiries related to the magazine.

Leaving the position of editor of CRM ends my 29-year "official" association with the cultural resources programs of the National Park Service. However, I will always be interested in the work of cultural resource managers and preservationists. I will continue to follow your progress through articles in future issues of CRM, and I truly hope that more and more of you will contribute news and feature articles about your cultural resources activities.

— Ron Greenberg

Ronald M. Greenberg retired as Assistant Director, Cultural Resources Stewardship and Partnerships, in 1999 and as CRM editor in January 2002.

In the next few months, the National Park Service will confirm an editorial direction for CRM, building on CRM's strong legacy and seeking to best serve our readers and the heritage in their care. To participate in these decisions, please send me your insights and comments on CRM's past, present, and future. Messages are welcome via e-mail, <john_robbins@nps.gov>, or facsimile, (202) 343-5260.

— John Robbins

Robert D. Hicks

Looting

Looting connotes theft, vandalism, trespass, possibly burglary, larceny, robbery, and even murder. Looting is crime.

This issue of CRM presents articles concerning the theft of the past, offering perspectives on the extent of looting worldwide and legal responses to mitigating the problem. Looting of the past through the destruction of historic sites and the illicit removal, trafficking, and sale of artifacts is a global dilemma with many facets, contradictions, and complexities, not all of which can be addressed here.

Note the use of the term "historic" as opposed to "archeological." Some commentators note that looting means the destruction of history. History is narrative; looting obliterates our ability to narrate history. Looting is not restricted to buried artifacts unearthed by "tomb robbers"; the plundered past[1] includes centuries-old manuscripts stolen from archives, tombstones of antebellum Virginians removed and sold as lawn ornaments, or feathers of endangered eagles affixed to religious objects sacred to New Mexico Native Americans, stolen for sale.

Most of the articles included in this issue address the protection of archeological resources. Wendy Coble illustrates the reality that archeological resources are created continuously. Wrecked World War II aircraft, as she demonstrates, now attract a collecting interest. A collecting interest means a financial interest. The two interests merge to create licit and illicit challenges to the preservation of history and our ability to construct history. But can a study of wrecked World War II aircraft contribute to history only a half century since the events occurred, events amply documented and still within living memory? The answer is yes; this answer is implicit to Federal protective laws that require stewardship of the resource to preserve and enhance our collective history, our understanding of ourselves. Archeological artifacts, though, have one essential attribute that other surviving flotsam of the past do not: context. Artifacts may or may not emerge from the earth as pretty, saleable things, but their ability to help us construct history lies in the information furnished by their context in the ground. Context refers to the relationships between buried artifacts and their temporal and spatial location. Artifacts shorn of context have forever lost their ability to furnish history. Shorn of history, they become commodities for purchase or trade, to enhance private collections or those of museums with few ethical scruples.

The articles in this issue fit six interrelated categories. First, an overview: "Stealing History" is an excerpt of a larger report produced by the Illicit Antiquities Research Centre of the MacDonald Institute of Archaeology, Cambridge, United Kingdom. The essay provides a timely overview of a global crisis, manifestations of which are evident throughout this issue of CRM.

Second, retrospective views are offered by now-legendary pioneers of Federal initiatives to combat looting. Judge Sherry Hutt, retired investigator Phil Young, and archeologist Martin McAllister have done much to define our investigative protocols and to heighten our current public awareness of looting and, perhaps most importantly, have contributed substantially to our current legal posture to combat looting. The Archaeological Resources Protection Act[2] (ARPA) has become the most vital legal weapon against looters in the United States and, despite some setbacks in Federal courts, ARPA has proven immensely successful when enforced aggressively. As McAllister observed recently, ARPA just passed its 20th anniversary, an occasion for law enforcers and cultural resource managers to rededicate archeological protection efforts. Jane Levine follows with a timely example of a successful Federal prosecution under a law that shares the spirit of ARPA, a case involving Federal recognition of other nations' heritage protection efforts.

Third, this issue examines State efforts against looting. Gerard York and Jim Miller highlight the adoption into Florida law of ARPA's value determination when conducting an archeological damage assessment, the first such State law in the country. Similarly, David Crass, Dan Parrish, and Christine Van Voorhies describe the process of drafting antilooting laws in Georgia and their consequent lack of immediate impact on looting. The authors conclude by offering strategies for meaningful legislative change.

Fourth, Native American perspectives are offered on strategies for combatting looting. Robert Cast and Timothy Perttula describe the

application of ARPA and the Native American Graves Protection and Repatriation Act in Texas with the attendant challenges of educating Native Americans whose lands are under threat as well as the local officials who must enforce the law. Julie Longenecker and Jeff Van Pelt tell of similar circumstances among Native Americans of the Pacific Northwest and list strategies on how to approach, train, and coach Native Americans to participate in prosecutions. Garry Cantley describes a Bureau of Indian Affairs variant on teaching Native Americans called "ARPA-Lite."

The fifth theme involves a discussion of newly imperiled resources and strategies to combat them. Leif Häggström describes an ancient archeological resource now threatened by collectors armed with metal detectors. He offers a solution in collaborations between archeologists and local citizens, particularly local amateur history societies enlisted as informants. Coble, as noted, examines Federal stewardship of relatively new cultural resources, crashed and even submerged wartime aircraft, reminding us that artifacts do not have to be old to be targeted by looters.

The sixth and last topic of this issue is crime prevention. Most ARPA-related training concentrates on investigative and prosecutorial strategies with little or nothing said about prevention. Crime prevention, though, embraces its own specialized literature, philosophy, and strategy of law enforcement. Michael Trinkley examines one of the most imperiled resources in the United States, cemeteries, and offers simple and effective techniques of "target hardening" to reduce the opportunity for theft of cemetery art. Alan Sullivan, Patrick Uphus, Christopher Roos, and Philip Mink investigate the phenomenon of inadvertent vandalism by studying the effects of outdoor recreation on cultural resources. Sue Renaud provides specific strategies to help prevent looting on private property and offers useful links to Internet sites.

Hutt's and Young's reflective essays reveal a keen awareness that protecting cultural resources protects our ability to construct identity. Looting, then, is culture theft, identity theft. This issue's authors argue with urgency because what is at stake is the loss of our collective identity.

Below is a list of resources — training, publications, Websites, and a video — to help readers pursue the topics raised in this issue of CRM.

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1 From Karl Meyer's exposé, *The Plundered Past: the Story of Illegal International Traffic in Works of Art* (New York: Atheneum, 1973).

2 Public Law 96-95, Title16 United States Code, Section 470 aa-mm, amended in 1988.

Robert Hicks is program manager for the Crime Prevention and Law Enforcement Services Section of the Virginia Department of Criminal Justice Services, Richmond. He promotes a program to train local law enforcement officers to investigate looting. He can be reached at <rhicks@dcjs.state.va.us>. He is guest editor of this issue of CRM.

Resources

Training

Archeological Resources Protection Training Program (ARPTP), National Center for State and Local Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524, telephone (912) 267-2345 or (800) 74FLETC. ARPTP presents lectures, discussions, readings, and practical exercises to law enforcement officers and archeologists to develop a team approach to archeological resources crime investigation.

Overview of Archeological Protection Law course, co-sponsored by the Archeology and Ethnography program, National Park Service; the Office of Legal Education, Executive Office for United States Attorneys and Criminal Division, U.S. Department of Justice; and the National Conference of State Historic Preservation Officers. The course provides an overview of Federal archeological and other heritage resources protection law for attorneys who prosecute looting, vandalism, and illegal commercial trafficking cases. For further information contact David Tarler, Archeology and Ethnography program, National Park Service, 1849 C Street NW-210NC, Washington, DC 20240, telephone (202) 343-4101.

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Websites

Archaeology magazine, <www.archaeology.org>.

ICOM Red List, <http://www.icom.org/redlist/>. International Council of Museums lists categories of African archeological resources that are at risk from looting.

International Cultural Property Protection Website, U.S. Department of State, <http://exchanges. state.gov/education/culprop> discusses relevant international and United States laws, news reports on looting, and an extensive image database of materials subject to import restrictions.

Legal Protection for Cultural Heritage, UNESCO, <http://www.unesco.org/culture/legalprotection/index.html>. Information on the following protocols and a current list of signatories to each: Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954), Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), and Convention Concerning the Protection of the World Cultural and Natural Heritage (1972).

National Stolen Art File, <http://www.fbi.gov/majcases/arttheft/art.htm>. The FBI maintains the National Stolen Art File, a computerized index of cultural property that has been reported stolen to the FBI by other law enforcement agencies.The FBI maintains a similar database of stolen art — the Art Loss Register, <http://www. artloss.com> — that is available to law enforcement agencies for searching.

Society for American Archeology, <www.saa.org>.

Video

Assault on Time, a half-hour video produced by the Federal Law Enforcement Training Center that illustrates the destructive impact of looting and vandalism on archeological sites. Available from the National Audiovisual Center, Customer Services Staff, 8700 Edgeworth Drive, Capitol Heights, MD, or telephone (207) 343-3701 or (800) 638-1300.

Neil Brodie, Jenny Doole, and Peter Watson

Stealing History

Although the morality of the black market in cultural material has been questioned by most and condemned by some, the black market continues to thrive. Museum customers may be fewer in number but they persist, and they have been joined by a new breed of private collector — the speculator — interested in monetary rather than historical value. Increasing numbers of "culture consumers" and reduced barriers to communication and transport have combined to open up new markets and cause more destruction. In recent years the illicit trade has been marked by —

- Increasing trade with Asia and Africa, and the appearance on the market of cultural items from both continents.
- A greater interest in ethnographic material.
- The targeting of previously immune religious monuments. Buddhist and Hindu temples in Asia are vandalised and Christian churches in Europe and institutions are stripped of their icons and frescoes.
- The reappearance of trade in paleontological material.
- Improved means of detection and destruction. The metal detector has found its place alongside the long probing rod of the Italian tombarolo and the car aerial of the American pot-hunter. Bulldozers, dynamite, and power tools out-perform picks and shovels.
- The appearance of new ways of marketing and selling cultural material, such as mail-order catalogues and Internet auctions. Internet sales have opened the market to millions of potential new customers and are virtually impossible to police.

Context Means Information

An object and its context together, when properly recorded and interpreted, can reveal much more than either in isolation. An apparently unimportant antiquity, for instance, might acquire great significance if it can date associated material or features, or is found far removed from its usual area of distribution. Thus sherds of mass-produced Roman pottery are, by themselves, of little interest, but when found in situ during an archeological dig in India they cause a great deal of excitement. They help to date the site and at the same time cast light on trade relationships. Even documentation of the original findspot of a piece, its provenance, can be important as minimal context, provided that the documentation is reliable.

Improvments in scientific techniques continue to increase the importance of context. For centuries pots have been rigorously cleaned to reveal their shape or decoration — their aesthetic qualities — which determine their price on the market. Now chemical and microscopic analyses of their residual contents can reveal much about their past contents. A recent cover of the scientific journal Nature carried the headline "Feasting on Midas' Riches" and reported chemical analyses of residues preserved in bronze bowls from an eighth-century B.C. tomb in Gordion, central Turkey — the time of the legendary King Midas.[1] Analyses revealed the remains of a great funerary feast — a spicy meal of sheep or goat washed down with a potent brew of barley beer, wine and mead. How many illicitly traded pots or metal vessels are examined so thoroughly? When the adhering soil is washed from a looted pot to reveal its financially valuable surface, how much information about ancient society is lost?

It is also possible to extract information about past climates and environments from properly contextualised paleontological specimens, which have become a valuable resource as concerns grow over global warming and increasing levels of pollution. For example, chemical studies of the strata occupied by microfossils reflect ocean salinity and the degree of glaciation millions of years ago.

Ethnographic material too has a context: the function and meaning that an object has in the society from which it is acquired. During colonial times, when many ethnographic collections were assembled, such details were rarely recorded; objects were collected for the quality of their craftsmanship or for their beauty. In consequence, these collections often reveal more about the tastes and prejudices of the collectors than

the people and societies from which the collections were acquired. The significance of an ethnographic item is enhanced greatly when the item is accompanied by oral or written testimony concerning its use or meaning. Indeed, today, sound and video recording are often an essential part of an object's documentation.

The Human Right to Heritage

An ethnographic object without contextual information is an object stripped of meaning — it reflects our own conceptions of beauty but tells us little of other people and places. It leaves us ignorant of its original social value and purpose or, worse, puts us at risk of misunderstanding them. For the society that produced such an object, removal from its traditional setting of worship and care might be an act of desecration. The right of a people to their cultural heritage will have been denied.

Archeological remains often are vital for the rediscovery of a people's history while ethnographic material provides a visible and easily accessible reminder of a people's traditions and accomplishments. The removal of archeological remains steals from a people part of their identity, part of their collective psyche. In view of this, some argue persuasively that the right to a cultural heritage is a fundamental human right, and that the destruction of cultural heritage should be treated as a violation of human rights.

A Justifiable Trade?

Illegal removal of objects from their country of origin, and the damage to objects caused by removal from their original contexts cannot be defended. Cultural objects are illicitly moved from south to north, from east to west, from the third and fourth worlds to the first, and from poor to rich. There is no countervailing flow. As the collections and museums of Europe and North America begin to accumulate Djenné terracottas from Mali or Khmer sculpture stripped from the temples of Cambodia, their counterparts in those countries do not benefit from acquisitions of "treasures," say, from ancient Greece or Rome. Illicit trade in cultural material is not a force for international harmony and understanding; illicit trade promotes division and resentment.

Most, if not all, collectors (some academics and curators too) regard antiquities as works of art. They argue that, regardless of their origin, antiquities should be displayed for all to see and appreciate — a celebration of human artistic genius that transcends time and space. "Art," however, cannot be used to justify destruction and illegal looting. Many objects marketed as works of art have been ripped from historic buildings or monuments. Methods of acquiring art have often entailed the destruction of artistic or architectural masterpieces.

Profit Margins

A number of illicit trading cases have been investigated over the years, usually when a valuable "treasure" has been reclaimed or its status questioned. Exchange chains revealed through investigation provide some information about the sums of money that change hands and the profit margins involved. In all cases over 98 percent of the final price was destined to end up in the pockets of the middlemen; the original finder received very little and the final buyer can hardly claim to have obtained a bargain. Such high percentages are not unusual. It has been estimated, for instance, that in the Petén region of Central America looters receive about $200-$500 each for vessels that might ultimately sell for $100,000. The situation with paleontological specimens is no better. A fossil turtle bought from its finder in Brazil for $10 fetched $16,000 in Europe. A landowner in the United States accepted $2,000 for a late Cretaceous Ankylosaur that was subsequently sold for $440,000.

Non-Renewable Resources

These dollar amounts reveal the simple truth of the illicit trade — there are large sums of money to be made, very little of which ever reaches the original finders. But the story does not end there. Once commodified on the Western market, objects continue to circulate for years, perhaps centuries, generating money in transaction after transaction. None of this money goes to the original finders or owners or their descendants. And this point is critical. Some say, with some justification, that a small sum in the

West might be a substantial amount in a hard-pressed subsistence economy, and no one could complain of people's selling pots or fossils to help feed their families. But if culture is regarded as an economic resource then selling it abroad is a poor strategy of exploitation. Cultural heritage is, after all, a non-renewable resource.

The purchase of looted antiquities is not a humanitarian act. In the long-term, looting undermines a community's economic base just as surely as looting depletes its heritage.

Drugs and Dirty Money

Another aspect of the illicit trade in cultural material is its relationship with the illegal drug market. Beginning 2 or 3 years ago, reports began to appear that the gangs dealing in money laundering or drug smuggling were also dealing in antiquities. For example —

- In January 1999, Spanish police broke up a smuggling ring that had been planning to trade stolen art and antiquities for cocaine.
- In 1985, a smuggler's plane arrived in Colorado from Mexico carrying 350 pounds of marijuana from western Chiapas and many thousands of dollars worth of pre-Columbian antiquities.
- Heroin, arms, and antiquities are now regularly seized along a well-known route by which Gandharan sculptures leave Afghanistan for Russia and the West.
- In Guatemala and Belize, cocaine and Mayan stelae are flown to Miami and other United States cities from secret airstrips in the rain forest.
- Miami has become a crossroad for illicit antiquities — from Ireland, Peru, Guatemala, Mexico, and Greece — precisely because, according to the U.S. Customs Service, there is so much "dirty money" swirling around in the city.[2] Drug profits pay for the antiquities, which are sent for auction to obtain a better pedigree for the cash.

Violence

The emergence of drug gangs and the link between money laundering and antiquities is a sinister development and the situation is gradually deteriorating.

- Ian Graham, now of the Peabody Museum of Archaeology and Ethnology at Harvard University, has been photographing Mayan sculptures in situ in Central America for the past 30 years, mindful of the fact that, at some stage, it might be necessary to prove where these objects — so easily stolen — had been removed. Beginning in 1998, Graham came up against violent gangs who were so intent on taking Mayan objects that they posted lookouts in makeshift observation posts at the top of palm trees to scare away anyone who was too inquisitive.
- In 1998, two guards at Guatemalan sites were killed at their posts.
- In one attack on the Angkor storehouse in the early 1990s, a guard was shot dead by rocket-wielding bandits.

Corruption

The police of many countries are also concerned about illicit trade because the large but undeclared sums of money that change hands during transactions can foster corruption in what are often impoverished bureaucracies. Yet in the bizarre logic of illicit trade this corruption is often used to excuse further criminal behaviour. If government officials or employees can be bribed so that the law is disregarded by those responsible for its administration and enforcement, why should a foreigner be expected to behave any differently? But this argument confuses cause and effect. The source of corruption is the large sums of money introduced by illicit trade.

Poorly paid and often outgunned officials of the "source" countries are not the only ones turning a blind eye. On more than one occasion, reports show, antiquities have been moved out of Jordan, Peru, Iran, and Nigeria with the personnel of Western embassies, sometimes as souvenirs, sometimes in diplomatic bags. And diplomatic bags can be large. A dealer in India using such a method shipped a container of antiquities when a diplomat was moving house.

Fakes and Replicas

Fakes are a hazard of the illicit trade. With no recorded findspot, it is left to the eye of the buyer (or the hired help) to decide what is fake and what is not. Fakes are designed to fool the expert and clever forgers have many techniques at their disposal — from simulating the accretions of grime and soot that may build up on an object stored for decades in the rafters of a smoky village hut, to smearing pots with mud from genuine archeological sites. One Mexican forger was so successful that he was arrested and accused of looting pre-Columbian sites. He was released only after demonstrating his craft.

In many parts of the world accurate replicas are produced for legitimate export, complete with carefully applied signs of age, but they then enter circulation as genuine artefacts. When

Chinese archeologists visited the United Kingdom in 1998 to reclaim stolen archeological material that had been seized by British customs agents 5 years earlier, they rejected about 20 percent as fakes or modern replicas. This suggests that perhaps a similar proportion of unprovenanced Chinese material currently entering the market is also fake.

The Scale of the Destruction

The illicit trade in cultural material is hidden from view. In consequence, it is difficult to quantify the damage caused worldwide by theft, despoliation, and illegal excavation, or to assign value or structure to the market. There are very few facts and figures. Discussions often rely on anecdote and assertion and, as a result, collectors and dealers may dismiss concerns about commercial looting as scaremongering. But the opacity of the trade is not predetermined or natural. The opacity is maintained artificially by dealers and traders for what might be the usual commercial reasons: Their position in the market depends on maintaining a distance between buyers and sellers, or perhaps they wish to obscure the distinction between legitimate and illegitimate material.

Conclusion

Historically, the antiquities trade has supplied a demand by the museums and private collectors of Europe and North America. Museums are often the final repositories of private collections, and it might be argued that, in the final analysis, museums underwrite the antiquities trade.

But the negative publicity generated by well-publicized cases has caused museums to take a more ethical stance, and many museums have now adopted policies that forbid acquisition or display of material of unknown origin, which cannot therefore be shown to be licit. In other words, if it cannot be demonstrated with any degree of certainty that cultural material is not looted, then a museum may not want to be associated with it. But some museums still continue to turn a blind eye.

Associated with the recent growth of the art and antiquities market has been a new breed of collectors, sometimes collecting purely for monetary profit. Furthermore several large, recently assembled collections of "ancient and tribal art" have been displayed and published, and their owners make no secret of the fact that the majority of the pieces have no verifiable provenance, yet fervently deny that their pieces might be looted. Indeed some collectors adopt a selective and limited definition of the concept of theft tailored to exclude certain forms of excavation.

In his book, The Plundered Past, Karl Meyer characterised tomb robbing as the second-oldest profession. Today, moral censure is shifting away from the practitioners and on to the customers, from those with few real options on a livelihood to those who could choose otherwise. Nobody has to collect illicit material. Ultimately, the looting of cultural material will stop only when collectors, museums, and dealers refuse to buy unprovenanced objects. No matter what protective measures are put in place, whether Draconian or liberal, they will be circumvented if a demand is created by a purchaser with few scruples or principles. In years to come collecting illicit antiquities will be as socially unacceptable as collecting rare bird eggs. But by then it will be too late. The cultural heritage of some parts of the world is already at the point of extinction.

Notes

1 *Nature* 23/30 (December 1999).

2 Tasker F. Lowbrow. "Art Smugglers Target a 'Hot' South Florida Market." *Miami Herald*, (September 19, 1999).

Reprinted and edited with permission from Neil Brodie, Jenny Doole, and Peter Watson. Stealing History: The Illicit Trade in Cultural Material, The McDonald Institute for Archaeological Research, Cambridge, United Kingdom, 2000.

For a copy of Stealing History, contact the Museums Association, 24 Calvin Street, London E1 6NW. To subscribe to the newsletter Culture Without Context, contact the Illicit Antiquities Research Centre (IARC), The McDonald Institute for Archaeological Research, Downing Street, Cambridge CB2 3ER, or visit IARC's Website at <http://www-mcdonald.arch.cam.ac.uk/ IARC/home.htm>. Stealing History was commissioned by the Museums Association and ICOM-UK, and intended for a popular audience.

Established in 1996, IARC monitors and reports on damage to cultural heritage by the international trade in illicit antiquities that have been stolen or clandestinely excavated and illegally exported.

Phil Young

The ARPA-way

According to the story, back in the summer of '75 there was a young warrior seeking his path. Participating in a sundance along the Little Bighorn River near Lodge Grass, MT, it was revealed that his energies should go towards protecting our gifts from the Everywhere Spirit. He was shown a sacred area and told a story about an Apsaruke trader who had taken and sold its offerings. The trader later suffered a long and painful illness from which he never recovered. Being cautioned that "any fool can be young, it takes wisdom to grow old," the young warrior was told that he had strong medicine, that no one would harm him, and that he should use his strengths for the care and safety of the people.

Many first moons of the killing frost passed. The chief ranger for the National Park Service's (NPS) Southwest Region asks a ranger at Santa Monica Mountains National Recreation Area to come to work in Santa Fe, NM. This ranger-warrior knew that the regional director had very strong medicine and decided that it would be good. He learned that artifacts from public lands may have shown up in galleries, and that Federal land managers were concerned about their archeological resources' entering the commercial artifact trade. Later, when an interagency Archaeological Resource Protection Act (ARPA) Task Force was created, he was "selected" to participate since he had studied and worked at historical and archeological areas. At first, his fellow warrior-protectors came from the Bureau of Land Management, U.S. Forest Service, and NPS, but eventually the Federal Bureau of Investigation, Internal Revenue Service, Bureau of Indian Affairs, U.S. Customs Service, and U.S. Fish and Wildlife Service became involved too. They made covert and undercover operational plans and identities – some worked, some did not. They learned much. As one warrior said: "the hunting was good."

Their primary goal was to make ARPA cases and, later, Native American Grave Protection and Repatriation Act (NAGPRA) cases, to count many coups upon those plundering our patrimony. The task force hoped to continue public education efforts, heightening awareness and sensitivities about protecting our nonrenewable archeological and historic resources. The task force was prepared to go after anyone, anywhere, anytime, but aimed at three specific targets: the looter, the trafficker, and the collector. All three are legally and morally culpable; all three thrive on greed. They rationalize their activities as recovering lost art and avoid owning up to ravaging heritage and patrimony for personal gain.

Through case leads, the warrior-protectors quickly discovered that people from many backgrounds and interests were involved — occasionally even a current or former NPS employee. They found that the theft of and trafficking in artifacts included people from every socioeco-

Bureau of Land Management archeologist Tony Lutonsky shows the damaged wall height at Tower Site, Tapia Canyon, NM, an area sacred to the Canoncito Navajo. The wall was reduced by looters. Investigation resulted in an ARPA conviction.

Extensive damage at an archeological site in central New Mexico caused by mechanized equipment. Damage assessment exceeded $10 million.

nomic level, and that the United States was both the source of and a destination for illegal artifacts. They learned that illicit trade in stolen art and artifacts is one of the leading crimes worldwide, in company with trafficking in drugs, weapons, and wildlife. Over time they noticed a trend: "Good things generally happen to those involved with cultural resources protection; bad things happen to those who violate our heritage protection laws."

Several of the interagency ARPA and NAGPRA efforts in Arizona and New Mexico have defined the state of legal practice for enforcing protection laws. In some areas, violators paid their dues to the judicial system, but sometimes a "higher authority" intervened. The tally has included incarceration, fines, the seizure and forfeiture of assets; there also have been consequent bankruptcies, lost jobs, dissolved businesses, legal costs, tribal ostracism, tainted professional reputations, disabling diseases, divorces, and even deaths.

I was that young warrior seeking his path. I have been amazed at the debts some looters, traffickers, and collectors continue to pay. I ponder their penalties, probations, and dollars lost. I also wonder about the other losses that can come their way. I hope that their songs and prayers are many, as some may pay a higher price than the legal consequences for their actions. What about those who destroy human burials with digging equipment, especially mechanized equipment? When people disturb or destroy sacred areas and beings, there is bound to be another level of indebtedness.

Unauthorized excavation at a Native American site in central New Mexico.

In retrospect, my career path was guided to this calling. My reward was being an operations chief for the massive NAGPRA reinterment of human remains at Pecos National Historical Park in 1999, by far one of the most gratifying experiences in my life. Now I am involved in efforts with the State of New Mexico's Historic Preservation Division to assist in establishing Site Steward programs Statewide, and to continue the protection of archeological and sacred areas. It has been a good path, with so much still to do.

The warriors-protectors now include prosecutors, attorneys, State, Federal, and local law enforcement officers, tribal leaders, archeologists, game wardens, and park rangers, backed by responsive courts. Blessings to all who continue the traditions of protecting our sacred places. The task is great, and the stakes are nothing less than the preservation of patrimony and identity.

Phil Young retired December 2000 with nearly 30 years of Federal service as a National Park Ranger/Special Agent. He now works for the State of New Mexico Historic Preservation Division, and can be reached by telephone, (505) 827-6314, and e-mail, <pyoung@oca.state.nm.us>.

Photos by the author.

Sherry Hutt

Observations of ARPA Warriors

Twenty Years on the March

In 1982 when a fellow assistant United States attorney came into my office, announced that she was going on sick leave, and handed me her antiquities cases, I had no idea what I would be facing. I knew she had worked with the Federal Bureau of Investigation (FBI) to investigate the theft of a family of Hopi katsinas and that the case had ended badly. The Hopis were not amenable to divulging the description of the stolen gods, so the FBI was stymied. My first inquiries to defense attorneys in the naïve hope that promises of amnesty would bring their return garnered a response that the katsinas would be burned. I traveled to Second Mesa, AZ, to meet with the Hopi elders, which enabled me to put a painful face on the daunting task for an attorney. At stake was the physical embodiment of a culture. In one act of theft hundreds of years of clan existence was brought to a halt. Katsinas are the physical embodiment of Hopi gods. Some of the katsinas were over 1,000 years old. These cases would not be like the prosecution of drug cases where the suppression of evidence in a faulty search would end in the destruction of contraband and fresh opportunities for miscreants. The object of these cases was the protection and recouping of irreplaceable bits of history and culture. Mistakes would be unforgiving. The task was weighty, and I was ill prepared.

In this article, I offer a personal reflection on the progress of investigating and prosecuting the Archaeological Resources Protection Act (ARPA) over the past two decades. Twenty years ago the number of people who had a working knowledge of ARPA could be counted on one hand. I sought help from all of them. The Federal Law Enforcement Training Center (FLETC) offered the first training on ARPA at Marana, AZ, for law enforcement agents and archeologists. The message of the lawyer instructing the initial courses was that the law was deficient in its task. This was of little help, so I turned to three other sources for aid: archeologists, agency law enforcement agents, and the Washington office of the National Park Service (NPS). The efforts of these sources chronicle the progress of cultural resource protection in the United States.

Any savvy prosecutor knows that the first thing you do when handed a case dealing with unfamiliar turf is to ask for schooling from the law enforcement agents who are immersed in the area, and breathe deeply. The law is of little use without field knowledge. Fortunately, the land management law enforcement agents are among the highest caliber of agents in the Federal service. They have camped out in rattlesnake infested areas and donned scuba gear in frigid rivers to stake out sites where looting may occur. They produce excellent reports, which form the basis of successful cases. And they clean up nicely for court to enthrall juries with their testimony. No fictional story can compete with the real life experiences of the agents who track looters into wild terrain while armed looters are tracking them. Investigative successes deserve wide attention because of scrupulous and innovative techniques of gathering evidence. For instance, successful cases have been made when potsherds left at the scene were fitted to those found in the suspect's possession. The ancient mummy of a Native American infant, long since disinterred and sold by thieves, was eventually sold to undercover agents and traced back to its resting place on Government land by soil analysis. A looter was connected to the site of massive destruction when a plaster cast taken in the excavation matched the unique shape of his trowel.

Specialized training has enhanced the passion agents bring to their work. FLETC can now boast of thousands of ARPA training course alumni. Over the years, training also has been offered by agencies regionally, the University of Nevada, Reno, and by private consultants. Most training sessions cross disciplines, so in addition to obtaining substantive knowledge of law enforcement techniques, agents, archeologists, and attorneys learn to work as a quick response

team. It is not unusual for a team to make an ARPA case soon after their training.

Twenty years of ARPA also have changed the working lives of archeologists. Field archeologists are still the first to learn of an ARPA crime. Park visitors and forest campers will approach archeologists to make a report because the archeologist is visible, knowledgeable of the resource, and caring. Twenty years ago archeologists had difficulty enlisting law enforcement agents to investigate an ARPA case. Then when working together, they had problems making protection of archeological resources a management priority. The number of archeologists on the staffs of land managing agencies dwindled in the 1980s despite the proliferation of looting activities. Today Federal agency archeologists still have crushing workloads, but their quest to preserve cultural resources is aided by the visibility of numerous successful ARPA prosecutions. The power of the positive press release has drawn agency resources to the service of protection efforts, while also sending a cautionary message to would-be looters.

One archeologist, however, has become the leader of his profession in investigating ARPA crimes and teaching ARPA protocols. Twenty years ago, Tonto National Forest, AZ, archeologist Martin McAllister was stung when he was ordered to deliver to looters ancient pottery exhumed from public lands when the evidence was suppressed in a Federal prosecution. He resolved to dedicate himself to developing forensic archeology and training others to produce site damage assessments, the nucleus of an ARPA prosecution. In 1984, McAllister was heartened to receive on behalf of the U.S. Forest Service the title to the truck of an ARPA defendant forfeited as part of the case. Such forfeitures are now commonplace in ARPA cases and there is a legion of archeologists skilled in producing site damage assessments for use as evidence in civil and criminal cases.

Twenty years ago Departmental Consulting Archeologist Bennie Keel and NPS archeologist George Smith had a vision that ARPA would become the vehicle to reach outside of the community of archeologists to engage resource managers, lawyers, and tribes in the protection of cultural resources. They educated future land managers, sponsored training, and drove others to write books and articles to heighten protection efforts. That torch passed to Richard Waldbauer and David Tarler who have taken NPS cultural resource training into law schools and have built bridges of cooperation between NPS and the United States Justice Department, United States State Department, United States Customs Service, and government agencies in Mexico and Canada. NPS and the Justice Department offer intense training to 100 civil and criminal lawyers annually and arm them with an encyclopedia of cultural resource legal materials. As a result, ARPA cases have expanded from protecting ancient Indian burials in the West and historic settlements in the East, to protecting archeological resources stolen from private land, foreign libraries, and submerged shipwrecks.

Twenty years, however, have produced setbacks to ARPA enforcement. In 1998, a Federal trial judge refused to accept as evidence of damages the archeological value specified in the law and regulations. In 1999, the Ninth Circuit Court of Appeals, which covers the Western States, Alaska, and Hawaii, delivered an almost fatal blow to ARPA criminal enforcement by requiring a new and unique standard for proof of the intent of the perpetrator. For 5 years, litigation that seeks to eviscerate the requirement of an ARPA permit to conduct scientific data recovery from Federal lands has been proceeding in a Federal magistrate's court.

To maintain positive momentum in the next 20 years, the formula of training professionals and engaging the public in archeology is still valid. In addition, law schools must recognize cultural property concepts as an integral part of property law courses. Courses on cultural property law, historic preservation law, and public lands management should be commonplace in law schools and graduate programs. The American Bar Association and State bar associations must develop cultural property law sections. The focus of training must expand beyond the application of laws to the development of a theoretical construct for resolving the unique issues of the future. Legal culture is not an oxymoron when put to such a high purpose.

Twenty years ago I felt inept and alone when I met with the Hopi elders. Today I feel the camaraderie of a smiling cadre of archeologists, agents, and lawyers, all well armed for the task.

Sherry Hutt is a judge of the Superior Court, Maricopa County, AZ, and co-author of Archeological Resource Protection and Heritage Resources Law.

Martin E. McAllister

Archeological Law Enforcement Training

Training is an important tool in efforts to combat the looting and vandalism of archeological resources. Archeological law enforcement training began in earnest with the enactment of the Archaeological Resources Protection Act (ARPA) in 1979. Four important archeological law enforcement training efforts since that time have been classes offered by the Federal Law Enforcement Training Center (FLETC), the National Park Service (NPS), the firm of Archaeological Resource Investigations (ARI), and the Virginia Department of Criminal Justice Services (VDCJS).

In 1981, the U.S. Forest Service, the Bureau of Land Management, and NPS requested that FLETC develop and teach a national archeological law enforcement class dealing with the investigation and prosecution of archeological violations. The resulting 4½-day FLETC class, entitled the "Archeological Resources Protection Training Program" (ARPTP), was first taught in 1983. FLETC has offered ARPTP over 100 times since. During this time over 3,500 participants have attended the class, roughly two-thirds of whom are law enforcement officers and one-third archeologists.

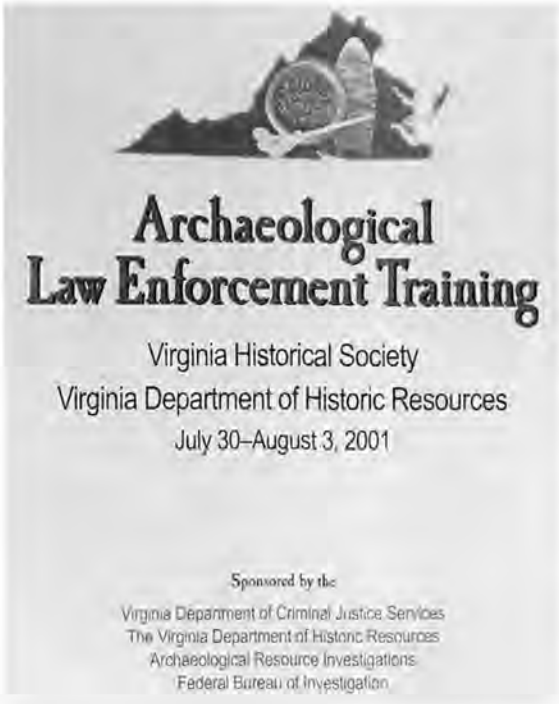
National Park Service archeologist Charles Haecker (left) and Gila River Indian Community archeologist Brenda Randolph measure and record damage in ARI's Archaeological Damage Assessment class. Photo by the author.

FLETC has also offered archeological law enforcement training as part of other training classes such as the "Law Enforcement for Land Managers" class that introduces upper level land management agency officials to law enforcement issues. Recently, FLETC changed the emphasis of training in this area by adding a 4-day block of archeological law enforcement instruction to the basic training programs for land management law enforcement officers and announcing that ARPTP would not be taught during fiscal year 2002.

NPS also has played a prominent role in archeological law enforcement training. To meet the need for training agency managers, NPS developed a class entitled "Archeological Protection Training for Cultural Resources and Law Enforcement Managers and Specialists." Later renamed "Overview of Archeological Protection Programs," this 1½-day class was taught 29 times between 1988 and 1992 and was attended by 813 participants. In 1992, NPS created a new class designed primarily to familiarize assistant U.S. attorneys and other prosecuting attorneys with ARPA and related statutes and the prosecution of archeological violation cases. This class is entitled "Overview of Archeological Protection Law" and is cosponsored by the U.S. Department of Justice (DOJ). It has been taught annually since 1992 and approximately 240 participants have attended the nine classes presented. Since 1996, NPS and DOJ have offered the "Overview of Heritage Resources Law" class that emphasizes civil enforcement law as well as compliance issues. This class has been taught four times and has been attended by approximately 110 participants. In 2001, NPS' National Capitol Region designed and offered the first advanced archeological law enforcement class in order to deal with investigation and prosecution issues beyond the scope of the basic classes. Nineteen graduates of basic archeological law enforcement classes who have experience with archeological violations cases attended the

advanced class. Based on their favorable reaction, it is likely that there will be future offerings of the advanced class and other versions of it.

Archaeological Resource Investigations (ARI) of Missoula, MT, has specialized in providing archeological law enforcement training for 16 years. ARI currently offers 3- and 4½-day versions of a basic archeological law enforcement class and a specialized 5-day class for archeologists entitled "Archaeological Damage Assessment." The basic classes deal with detection, investigation, and prosecution of archeological violations and are taught by a team that includes a criminal investigator, an archeologist, and a prosecuting attorney. Both the 3- and 4½-day classes include an archeological crime scene practical exercise in which a mock archeological violation is detected and investigated. Targeted participants for ARI's basic archeological law enforcement classes are Federal, tribal, State, and local law enforcement officers, archeologists, and prosecuting attorneys. The Archaeological Damage Assessment class was developed by ARI in conjunction with the Bureau of Indian Affairs, Western Regional Office, and the U.S. Attorney's Office in the District of Utah. In this class, participants are required to conduct damage assessment procedures at a field site, prepare the archeological value and cost of restoration and repair determinations required by ARPA, and write an archeological damage assessment report. These reports are then presented to the class and critiqued by the archeologist and prosecuting attorney who serve as instructors. Targeted participants for this class are archeologists employed by land management agencies, tribes, and archeological consulting firms.



Federal and State collaboration in training archeologists and law enforcement officers has resulted in increased surveillance of fragile resources, prosecutions, and public awareness. Photo by Robert D. Hicks.

In addition to archeological law enforcement training provided by Federal agencies and ARI, some States also offer classes on this subject. An outstanding example is the Time Crime training program of VDCJS.* Since 1995, VDCJS has taught 4- and 8-hour archeological law enforcement classes for Virginia law enforcement officers and archeologists. Subjects covered in the 4-hour class are an overview of archeological resource crime, the role of the archeologist in crime scene investigation, local archeological resources, State and Federal laws protecting these resources, investigative protocols, and Virginia case studies. The 8-hour class includes an archeological crime scene practical exercise. To date, VDCJS' Time Crime classes have been taught over 100 times with nearly 4,000 participants. In 2001, VDCJS, ARI, and the Federal Bureau of Investigation (FBI) cooperated to present a 4½-day archeological law enforcement class in Richmond, VA. In addition to FBI and U.S. Customs Service agents and law enforcement officers and archeologists from Federal land management agencies, this class was attended by graduates of VDCJS' Time Crime classes in order to expand their expertise in archeological law enforcement.

These and other archeological law enforcement training efforts during the 22 years since ARPA was enacted have been highly effective in preparing law enforcement officers, archeologists, and prosecuting attorneys to deal with archeological resource crime, but the overall need for training remains unfulfilled. As participants in archeological resource crime become more sophisticated and more challenging legal issues are raised in their defense, there will be an increasing need for archeological law enforcement training efforts to respond with basic classes for new employees, refresher classes for previously trained employees, and new types of training such as ARI's Archaeological Damage Assessment class and NPS' advanced archeological law enforcement class.

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* The Virginia program was described in "Time Crime — Anti-Looting Efforts in Virginia," *CRM* 24, no. 2 (2001): 3-5.

Martin E. McAllister, archeologist, heads Archaeological Resource Investigations of Missoula, MT.

Jane A. Levine

Returning Stolen Cultural Property

Tomb of Wang Chuzi Marble Wall Relief

Sometime in the summer of 1994, thieves crept through the mountains of western Xiyanchuan Village in the Hebei Province of the People's Republic of China to the 10th-century underground tomb of Wang Chuzi, a high ranking Five Dynasty ruler. The tomb raiders came laden with excavation tools and enough explosives to blast through the tomb's stone covering. Entered through the blasted opening, an underground tunnel led to the front chamber, which divided into two side chambers and a rear room at the opposite end. The rooms and passageways were adorned with intricately carved marble wall reliefs, painted murals and landscapes, and numerous other precious contents placed there to guide the spirit of Wang Chuzi to the afterlife. The looters stripped the tomb walls of approximately 10 relief sculptures and wall paintings, damaging much of the surrounding art as they worked. Local villagers later discovered the break-in and the local police summoned archeological experts to assess and investigate the plunder. The thieves were never caught.

But the stolen treasures may not be lost forever. About six years after the theft, in 1999, a Hong Kong art gallery placed a marble wall relief depicting a guardian up for auction at Christie's in New York, NY. The catalog photographs of the relief caught the attention of Chinese cultural officials who suspected that the photographs showed one of the reliefs looted from the tomb of Wang Chuzi. The matter was referred to the U.S. Customs Service and the U.S. Attorney's Office in the Southern District of New York for further investigation. Archeologists who had participated in the post-theft excavation of the tomb of Wang Chuzi rendered strong opinions, based on style, pigment, and quality, that the relief for sale in New York was the same relief stolen from the tomb of Wang Chuzi. In addition, the dimensions were a perfect fit with the empty space on the tomb wall where the relief had been removed. The tomb of Wang Chuzi also proved to be a protected cultural monument, declared under Chinese local and national law to be state-owned property.

Based on this and other information, in March 2000 the U.S. Government filed forfeiture proceedings in New York Federal court[1] relying on a 1983 law known as the Convention on Cultural Property Implementation Act[2] (CPIA). CPIA is the legislative means by which the United States implemented the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, an international convention that includes requiring its parties to respect each others' cultural property export restrictions. The purpose of CPIA is to achieve greater international cooperation towards preserving cultural treasures that not only are important to their nations of origin, but also contribute to greater international understanding of our common heritage.[3] To accomplish that purpose, CPIA authorizes the President to enter into agreements with other UNESCO convention parties to restrict the importation of certain categories of archeological artifacts and to unilaterally restrict importation in "emergency" situations. CPIA also prohibits importation, and provides for the seizure and return of cultural property stolen from monuments, museums, or institutions.[4] CPIA's provisions relating to "stolen cultural property" provided the legal basis for recovering and returning the Wang Chuzi tomb relief to the People's Republic of China.

Generally, to seize and repatriate "stolen cultural property" under CPIA, the government must demonstrate that —

- First, the object is "cultural property," as defined in the statute. CPIA incorporates the broad definition of cultural property found in the UNESCO convention, which encompasses most archeological artifacts such as the tomb relief.
- Second, the cultural property at issue is "[d]ocumented as appertaining to the inventory of a museum or religious or secular public

monument or similar institution in any State party."[5]

In the tomb relief case, local and national governmental agencies had marked and specifically designated the entire tomb site as a protected, state-owned cultural monument prior to the 1994 theft. It was not until after the theft, however, that archeologists with the People's Republic of China's Cultural Relics Administration conducted a formal excavation. The government's complaint alleged that the relief was nonetheless "documented as part of the inventory" because the tomb site itself was known and documented and the relief was physically attached to the monument wall. An alternative theory alleged that the relief was documented during the post-theft excavation, albeit as an empty crater on the wall.

- Third, the cultural property was "stolen."[6] To forfeit and repatriate stolen cultural property under CPIA, the government must establish that the property was stolen, although it is not necessary to prove who stole the property. In the case of the tomb relief, police reports and archeological expertise, among other things, supplied proof that the relief was from the tomb of Wang Chuzi and was stolen from the tomb in 1994.
- Fourth, the cultural property must have been stolen after either April 1983, the effective date in the United States of CPIA, or after the state party requesting the return of property entered into the convention — whichever is later.[7]

Significantly, under CPIA the critical date is that of the theft, not the date of importation. This provision can limit the application of the statute, as items stolen before April 1983 or before the other nation became a party to the UNESCO convention — whichever is later — are not subject to seizure in the United States under CPIA, even if they are imported after the effective date. Thus, it is critical in CPIA cases to be able to document the date of the theft, proof that can be elusive where the cultural property is looted from undiscovered or unexcavated archeological sites. For the marble tomb relief, however, the date of theft could be established because the tomb was in a known and protected location, and law enforcement authorities promptly learned about its invasion, permitting them to document the time period within which the looting occurred.

Under CPIA's stolen cultural property forfeiture provision, the government does not need to demonstrate that the property was imported to the United States with knowledge that it was stolen. A bona fide purchaser without reason to believe or knowledge that the property is stolen, or a person who acquired legal title to stolen cultural property under the laws of another jurisdiction, cannot assert an "innocent owner defense" under CPIA.[8] Thus, the Government did not need to investigate or prove whether or not the marble tomb relief was imported to the United States with knowledge or reason to believe that it was stolen. An innocent owner or possessor without knowledge might have a claim for compensation, although such claims are available under CPIA only in very limited and rare circumstances. It is worth mentioning that stolen cultural property held in the United States for 20 consecutive years is exempt from the forfeiture provisions. There are also various exemptions in CPIA for pieces held publically by recognized museums for certain time periods.[9]

The litigation over the Wang Chuzi tomb relief was ultimately amicably resolved, as all relevant parties agreed that the piece should be forfeited to the United States and repatriated to the People's Republic of China. On March 7, 2001, a Federal district court judge signed an order to that effect and the United States delivered the relief to the People's Republic of China at a ceremony in New York on May 23, 2001. The damage inflicted on the tomb of Wang Chuzi is immeasurable and irreparable. Yet perhaps legal action under statutes like CPIA to seize and repatriate looted treasures such as the Wang Chuzi marble tomb relief will help to deter looting and trafficking and ultimately promote the preservation of cultural property worldwide.

Notes

1 *United States* v. *One Tenth Century Marble Wall Panel Sculpture of a Guardian From The Tomb of Wang Chuzi Located at Christies, 20 Rockefeller Plaza, New York, NY*, 00 Civ. 2356 (AKH).
2 Title 19, United States Code, Sections 2601-9.
3 S. Rep. 97-564 at 21 (2d Sess. 1982)
4 19 U.S.C. §§ 2607-10
5 19 U.S.C. § 2610(2)(A)
6 19 U.S.C. § 2610(a)(B)
7 Ibid.
8 19 U.S.C. § 2609(c)
9 See 19 U.S.C. § 2611.

Jane A. Levine is as an assistant U.S. attorney in the Southern District of New York. The views in this article are her own and do not necessarily reflect those of her employer.

Gerard T. York and Jim Miller

An Overview of Anti-looting Efforts in Florida

People have lived in Florida for more than 12,000 years. From the earliest Paleo-Indian hunters at the end of the last ice age to the powerful chiefdoms encountered by Spanish explorers, Florida's native people have left their mark. The landscape is rich with remains of pre-European earthworks, mounds, canals, plazas, and villages. Almost six centuries of European exploration, colonization and settlement have left archeological sites ranging from 16th-century St. Augustine to Spanish missions, Spanish shipwrecks, British plantations, and wooden forts. Every few years brings yet another archeological surprise. New discoveries spark great public interest in Florida archeology, interest that further reinforces our responsibility as owners and managers to protect this fragile legacy. The Florida Department of State through its Bureau of Archeological Research (BAR) is taking a two-pronged approach towards fulfilling its responsibility, with training for law enforcement personnel and land managers about protecting archeological resources, and assistance for prosecutors in attacking the problem of archeological looting.

Officer Gary Wills, Florida Park Patrol, interviews a suspect in connection with commercial shell collecting from Josselyn Island, a National Register-listed Caloosahatchee shell complex on State-owned lands. Photo courtesy of Florida Department of Environmental Protection, Charlotte Harbor Aquatic and State Buffer Preserves.

In March 2000, Florida Secretary of State Katherine Harris established the Archeological Law Enforcement Task Force to focus attention on looting. Members of the Office of the Statewide Prosecutor, Florida Department of Law Enforcement, BAR, Florida Department of Environmental Protection (DEP), the Governor's Council on Indian Affairs, and other groups conducted an assessment of looting, vandalism, and the destruction of archeological sites on public lands. The task force recommended ways to help alleviate these problems. Looting of archeological sites in Florida has reached epidemic proportions, in part because of the high prices that antiquities bring at market. Prices on the Internet reveal that Clovis points may sell for thousands of dollars and other stone points are frequently valued in the hundreds of dollars.

During the past decade, land management officials have made at least 50 arrests at the Aucilla Wildlife Management Area 25 miles southeast of Tallahassee. The area provides a continuing opportunity for State and Federal cooperation given its proximity to St. Marks National Wildlife Refuge. The self-styled Coon Bottom Artifact Militia is a loosely organized clandestine group of artifact collectors operating in the Aucilla area as well as other parts of the State. Many prosecutions of looters in the Aucilla area have occurred recently, netting some members of this group, but overall enforcement efforts have met with mixed success.

On March 31, 1997, Arthur and Daniel Cochran were arrested by Officer Robert Daniels of the Florida Game and Freshwater Fish Commission on charges of unlawful excavation of a State-owned archeological site. The Cochrans had uncovered stone tool fragments and pottery shards from the Weeden Island culture dating back 1,000 to 1,500 years. In addition to the usual penalties for such violations, Judge F. E. Steinmayer ordered the Cochrans to pay $28, 771.67. The penalty was based upon

testimony from a BAR archeologist using the Federal archeological value standard. The Cochrans did not dispute a restitution amount of $1,089.30 for an emergency archeological survey to assess the impact of their digging.

While the Tallahassee Democrat called the *Cochran* case "a turning point in Florida's effort to halt the plunder of its Native American heritage," the case did not fare well on appeal.[1] The First District Court of Appeal in Tallahassee reversed the restitution award that Assistant State Attorney Michael Schneider had sought for lost "archeological value." Applying existing Federal standards for archeological value, the State's theory of recovery was that the restitution was "what it would have cost the State to have done a proper archeological investigation at the locations" that the defendants looted, or "what it would cost to try to recoup the historical knowledge lost as a result of the digging."[2] The following year, in an appeal where a defendant named Shearer was sentenced to jail time, the same Tallahassee appeals court reversed without comment another archeological value restitution award of $33, 801.34 based upon its decision in the *Cochran* case.[3]

While the appeals court in *Cochran* did not state a basis for reversing the restitution award, one ground argued on appeal by the Cochrans was that the amount did not represent restitution under existing Florida law, requiring a court to find "that the loss or damage is causally connected to the offense and bears a significant relationship to the offense."[4] However, in response to task force recommendations and the *Cochran* and *Shearer* decisions, the Florida Legislature in 2001 amended the Florida statutes to explicitly enact into Florida law the Federal archeological value standard, thus guiding trial courts on standards for the commercial value of archeological resources, the cost of restoration and repair of damaged archeological sites, as well as archeological value. Florida is the first State in the Nation to enact into law the Federal archeological value restitution standard. It is hoped that this enhanced prosecutorial tool will provide a framework for Florida judges to fashion restitution awards that both fully reflect the gravity of the damage done by archeological looting and withstand appellate review.

The task force pointed out that, notwithstanding the ability of prosecutors to prove criminal cases beyond a reasonable doubt, BAR already possessed the authority under existing law to fine persons and organizations for damages and injuries to all cultural resources on State-managed lands and to enjoin such persons or organizations from similar activity. Section 267.13(2), Florida Statutes, permits the Division of Historical Resources (DHR) to institute an administrative proceeding to impose a fine of not more than $500 a day and seek injunctive relief against any person or business organization that, without written permission of the division, explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archeological value located on State-owned or State-controlled lands, including State sovereignty submerged lands.

The task force recommended that assessments and applications occur in conjunction with each prosecution for archeological looting and suggested that expansion of the civil penalty provisions beyond the current $500 per day may be useful in cases where criminal prosecution is determined to be inappropriate or declined, or a pretrial diversion agreement is reached. Appropriate cases for civil penalty assessments may include contractors or companies that work on State land, cases of unintentional damage to archeological sites, or cases where the need for restoration and repair is greater than the desire to punish the offender. Mitigation factors in assessing such penalties may include agreement to return archeological resources to DHR; contribution to the protection or study of archeological resources; provision of information to detect, prevent, or prosecute other instances of archeological looting; hardship or inability to pay; evidence that the violation was not willful; or a finding that the penalty is excessive.

Likewise, the task force pointed out that existing provisions of Florida law include various forfeiture provisions, including forfeiture of all specimens, objects, and materials collected, together with all photographs and records relating to the removed material; and forfeiture of any vehicle or equipment used in connection with the violation.[5] The task force noted that such provisions, particularly seizure of the looter's vehicle, could serve to send a strong message to looters. Also, the task force favorably noted sentencing options developed by prosecutors in other States, such as requiring offenders to appear in public commercials or pay for advertisements renouncing their illegal behavior and the consequences of

their personal transgressions, as well as advising those who might do so otherwise to refrain from similar illegal acts.

The task force recommended another vital change to Florida law. DHR is required by law to maintain a central inventory of historic properties. The "master site file" is an important tool for protecting Florida's cultural resources, both terrestrial and submerged, as well as a useful tool for researchers. However, Florida's liberal public records laws until recently allowed information contained in the master site file to be accessed and used by persons wishing to locate archeological sites to vandalize and loot for personal gain. Many of the archeological sites recorded in the master site file are fragile and remain vulnerable. The disturbance of any site could irretrievably destroy a part of Florida's history. Until 2001, Florida was one of a minority of States that had no protective clauses regarding archeological and cultural site locations. One convicted looter, in fact, tellingly jested to the Tallahassee Democrat that he would like to volunteer to serve his community service time "at the state archives in the map room" — a place known to be "full of maps showing the locations of archeological sites."[6]

The lack of protection from disclosure for Florida sites put the Federal government in a difficult position. The Federal government is mandated to share site-specific information with the Florida State Historic Preservation Officer to comply with Section 106 of the National Historic Preservation Act (NHPA). Yet to do so would jeopardize the release of that information to the general public under Florida's public records law. Such disclosures would conflict with section 304 of NHPA which protects specific information on the location and character of cultural resources when sharing that information could place them in jeopardy.

Two other urgent developments on this subject were noted by the task force. First is the development of geographic information system (GIS) databases listing sites located in the Florida master site file. GIS databases are valuable tools for recording site location and survey data for researchers, land use planning, and site stewardship by land managers and law enforcement officers. However, these data could be quickly disseminated to the general public via the Internet if protective measures were not placed on how the data are shared and used. Also, the new implementation guidelines for NHPA required increased consultation with federally recognized tribes. The task force noted that managing information about Native American sacred sites and sites of cultural patrimony comes with a responsibility of confidentiality. Credible stewardship includes protecting sensitive information from public dissemination. Based on the task force recommendations, DHR proposed a legislative exception to the Florida Constitution that was passed into law during the 2001 session of the Florida Legislature —

> Any information identifying the location of archeological sites contained in site files or other records maintained by the Division of Historical Resources of the Department of State is exempt from the provisions of s. 119.07(1) and s. 24(a) of Art. I of the State Constitution, if the Division of Historical Resources finds that disclosure of such information will create a substantial risk of harm, theft or destruction at such sites.

The Florida master site file database also is being modified to better permit collecting and evaluating the nature and extent of the looting problem affecting Florida's archeological sites. The addition of data entry fields in the State's archeological database and on the corresponding paper site form will improve the State's documentation of looting and other types of site disturbances.

In addition to spearheading the Archeological Law Enforcement Task Force, BAR has backed efforts to educate law enforcement agencies and personnel about protecting archeological resources. BAR's standard Archeological Resource Management (ARM) training was originally designed to educate State land managers, especially in the Florida park system, who are responsible for the day-to-day management of State-owned archeological resources. The ARM program includes law enforcement topics and law enforcement trainees. The program was developed in conjunction with DEP's Division of Recreation and Parks, and was initially offered primarily to park staff and management.

The ARM program soon was opened up to other public land managers, Federal as well as State, and to nonprofit land conservation organizations. As training was made available to other agencies in addition to the Florida Park Service, the number of law enforcement officers participating in the 3-day ARM class has increased. So far, more than 350 State, Federal, local government, and nonprofit employees have completed

the 3-day training course. An additional 200 law enforcement officers have received other specialized training.

In 1993, the Florida Senate Committee on Governmental Operations recommended that the Florida Department of Law Enforcement in conjunction with DHR, Department of Natural Resources (now DEP), and the Game and Fresh Water Fish Commission (now FWCC) develop training for law enforcement personnel in protecting archeological sites on public lands. This training was developed as a 1- to 2-hour module, and is now part of the basic law enforcement curriculum for every law enforcement officer in the State trained since 1993. This training acquaints all agencies and law enforcement officers with the basic statutory foundation that disturbance of archeological resources on publicly owned or controlled land without a permit is illegal.[7] The training further directs how officers should respond if such a violation is suspected. Hundreds of recruits of sheriff's offices, city police departments, and State law enforcement agencies have received this basic training in the past 8 years.

The task force made a number of proposals to supplement BAR's continuing efforts to educate law enforcement agencies and personnel about protecting archeological resources. The task force recommended that BAR should work with the Florida Bar Association (FBA) to develop a seminar for Florida's State prosecutors similar to Federal training programs attended by Florida attorneys (see McAllister's article, p.15). BAR, in cooperation with the Florida Association of Prosecuting Attorneys, hopes to finalize arrangements for a Florida Time Crime seminar for interested attorneys in the coming year.

Outdoor enthusiasts such as hunters, fishermen, boaters, and scuba divers are responsible for much of the illegal digging in Florida. Many outdoor enthusiasts, largely as a result of the natural conservation ethic that is now widely advocated by national and State sport associations and organizations, have adopted "leave only footsteps" ethics of impacting the natural environment and enjoying outdoor pastimes. To educate outdoor enthusiasts about cultural resources, the task force recommended that BAR develop course materials on site preservation law and cultural preservation ethics for first-time hunters, boaters, scuba divers, and other outdoors people for whom training or State certification is required. Also, BAR distributes a number of publications to promote archeological conservation. "Best Management Practices, An Owner's Guide to Protecting Archeological Sites" is useful for anyone who has an interest in protecting sites, and contains a section entitled "Looting and Vandalism" with recommended procedures and contact information. A companion publication, "Archeological Stabilization Guide: Case Studies in Protecting Archeological Sites," illustrates the damage caused by looting and the role of law enforcement and site managers in responding to threats and repairing damage.

State Archeologist James Miller notes that the task force organized all of the principal people and agencies necessary to respond effectively to possible illegal activities —

> Prior to the work of the Task Force, it was virtually impossible to arrange a quick and effective response because none of the necessary participants had any idea about archeological resources and the means for their protection. Now an effective response can be implemented from initial report to law-enforcement action in less than 24 hours.

Miller hopes that procedures developed to respond to suspected violations will improve the effectiveness of cooperative efforts among land managers, archeologists, law enforcement officers, and prosecutors.

Damage to our heritage by groups like the Coon Bottom Artifact Militia should never be forgotten. An accomplished Florida looter has claimed that "[t]his is my hobby and always has been. I've recovered a lot of things that would still be in the ground if I hadn't dug them up. . . I always thought I was doing a service to mankind." [8]

The Florida Legislature disagreed with such sentiments and recently clarified Florida's public policy regarding the State's archeological heritage —

> It is hereby declared to be the public policy of the State of Florida to preserve archeological sites and objects of antiquity for the public benefit and to limit exploration, excavation and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archeology and anthropology.[9]

With any luck, the days are numbered for the Coon Bottom Artifact Militia and others who illegally collect and traffick in artifacts.

Notes

1 Bill Kaczor, "State Getting Touch on Looting at Florida's Archeological Sites," *Tallahassee Democrat* (December 22, 1997): 8B.

2 Attorney General's Brief at 3-4. On the existing standard for archeological value, see *Cochran* v. *State*, 724 So.2d 129 (Fla. 1st DCA 1999). As defined in regulations promulgated by the Secretary of the Interior, "archeological value" is the "value of the information associated with the archeological resource" [43 C.F.R. § 7.14(a)(1997)]. This intangible value "shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation."

3 *Shearer* v. *State*, 754 So.2d 192 (Fla. 1st DCA 2000).

4 *Glaubius* v. *State*, 688 So.2d 913, 915 (Fla. 1997).

5 Section 267.13(1)(a)-(c), Florida Statutes.

6 Kathleen Laufenberg, "The Great Artifact War," *Tallahassee Democrat* (March 10, 1996): 1A.

7 §267.13, Florida Statutes.

8 Laufenberg.

9 §267.14, Florida Statutes.

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Jim Miller is State Archaeologist and chief of the Bureau of Archaeological Research. Under his direction, the bureau has supported resource management, research, and public interpretation activities. He has helped write and revise many of the Florida rules and statutes relating to archeological resources. In 1997, he received the Award for Excellence in Cultural Resource Management from the Society for American Archaeology.

David C. Crass, Dan Parrish, and Christine Van Voorhies

"Rescuing" Artifacts
A Case Study in Disinformation

The summer of 2000 was exceptionally dry in Georgia, even by the standards of several years of preceding drought. As a result, rivers and tributaries were low in their banks and, in some cases, completely dry. "Protected" archeological sites became exposed, and reports of looting, already on the rise for terrestrial sites, exploded. The southwestern part of the State was especially affected as the Chatahoochee and Flint Rivers were targeted by looters.

In response to the increase in looting, the Georgia Department of Natural Resources (DNR) Law Enforcement Section approached DNR's Historic Preservation Division for assistance in drafting additional protections for consideration by the Georgia General Assembly. A joint committee involving DNR law enforcement officers, the Office of the State Archaeologist, an avocationalist with interests in riverine sites, and the departmental attorney met several times in late 2000 to draft legislation. A legislator who has preservation interests and is a diver agreed to sponsor the proposed changes. This article recounts what followed, in hopes that other States can learn from Georgia's experiences.

Legal Background

Georgia is home to several major Federal agencies, including the U.S. Forest Service and the U.S. Department of Defense. Sites on these properties are protected by the Archaeological Resources Protection Act (ARPA) and other Federal laws. In addition, the State manages a variety of public lands. Georgia has an award-winning State park system, and large wildlife management areas. However, only about 8 per-

cent of Georgia is protected under Federal or State ownership. This percentage is typical of Southeastern States, where private property rights are highly valued.

In addition to property and trespass laws, the Official Code of Georgia, Annotated (OCGA) includes several statutes that apply specifically to terrestrial and submerged archeological sites. OCGA 12-3-621 is the critical code section that addresses enhancing and protecting archeological sites.

The Legislation

OCGA 12-3-621 et seq., prior to the 2000 Georgia General Assembly, 1) prohibited disturbance of an archeological site without the written permission of the landowner and notification of the DNR (Section 106 actions were exempted), 2) prohibited entering an archeological site posted against trespassing or a site with a lock, gate, door, or other obstruction designed to prevent access, and 3) allowed surface collection of artifacts when conditions 1 and 2 did not pertain.

Because DNR wanted to address both terrestrial and underwater sites, and navigability is a thorny issue on inland waters, DNR approached the problem by clarifying OCGA 12-3-621. There was much internal discussion about the advisability of allowing continued surface collection in cases where property is not posted, fenced, or gated. However, "collecting arrowheads" is an old hobby in the Southern United States as elsewhere and, in the end, this exemption in the law remained. As the legislation made its way through the General Assembly, divers from the southwestern part of the State demanded, and got, changes in the proposed language pertaining to submerged archeological sites. (Note that a stringent law protecting underwater sites in navigable waters was already on Georgia's books.) The legislation passed both houses of the legislature with strong bipartisan support. A critical theme in committee hearings was that this legislation was intended to help property owners become better stewards of their land, and that the legislation enhanced their control of their property. In fact, the Speaker of the House, a powerful figure in Georgia politics, added language to the bill that supported enhanced stewardship.

To better protect sites on exposed shorelines, the enacted legislation included clear language restricting surface collecting to dry land. The legislation also made it clear that failure to notify the State archaeologist's office of intent to dig or disturb a site is a violation of the law. In order to give law enforcement officers an additional investigative tool, the legislation also made possession of artifacts collected after the law took effect prima facie evidence of a violation. Violation of OCGA 12-3-621 remained a misdemeanor, as it had been previously.

In short, the revised law did not allow collecting anywhere except dry land with no barriers. In all other cases, collectors must have written permission of the landowner at a minimum and, in most cases, must notify the State archeologist.

The Reaction

Adverse reaction to changes in OCGA 12-3-621 was immediate. Several salient facts became evident very quickly —

- Archeological protection laws are widely ignored.
- Divers and metal "detectorists" led the opposition.
- Much of the opposition came from out-of-State.
- Many among the opposition had a direct or indirect monetary interest in the artifact market. Books published by them included pictures of grave goods.
- The major tactic used was a Web-based disinformation campaign.
- The major goal was to scare hunters, fishermen, and responsible avocationalists into signing a petition demanding an "isolated finds" provision for divers or outright repeal.

Because the reaction was orchestrated over Websites and listservs, bad information propagated rapidly and results were immediate. A television feature story included a river diver holding out his hands and offering to go to prison to defend his right to collect in public waters. The senior author of this article was featured on a "most wanted" poster. The governor's office, the lieutenant governor's office, legislators, and various policy-makers received lengthy letters. Because the writers got most of their language from Websites such as <artifactsguide.com> and various metal "detectorist" sites, the letters were nearly identical. The letters charged that DNR archeologists were jealous of artifacts sold at shows and didn't know the rivers as well as the divers, and that the "new" law was an unwar-

ranted intrusion that would "shut down" all collecting. Claims were nearly universal that looters are really just rescuing artifacts that might be lost otherwise.

The Response

Because the primary thrust of the reaction is to insert weakening language to the current law, our overall strategy has been to anticipate and rebut arguments that may arise in a committee hearing in the 2002 General Assembly. First, DNR coordinated with our already extensive network of supporting organizations, including the Georgia African American Heritage Preservation Network, Georgia Council on American Indian Concerns, Society for Georgia Archaeology, and Georgia Trust for Historic Preservation. Each constituent letter was individually answered and copied to the legislator or policy-maker who had requested a response. The State archeologist met personally with concerned legislators, and give periodic updates to policy-makers regarding the facts of the law. Rural legislators with personal collections from their farm fields were encouraged to bring them in so that a member of the Georgia Council of Professional Archaeologists could analyze their collections and prepare a brief report including a State site form. An op-ed piece was distributed Statewide to interested newspapers. This prompted several reporters to write their own stories on the clarifications — all of them reasonably balanced. An information packet with the theme "Clearing Up the Confusion" was prepared and distributed to each legislator. The Georgia Council of Professional Archaeologists and the Georgia Council on American Indian Concerns called committee members. Perhaps most importantly, DNR law enforcement took a reasoned approach to enforcement that was closely modeled on Georgia's game and fish laws, which are familiar to many legislators and their constituents.

Lessons Learned

First, identify the kinds of criticisms that may be mounted against protection legislation and try to address opposition before launching any legislative initiatives. DNR approached its initiative from a property rights perspective, with the belief that through a combination of long-term education and strengthened law, DNR could provide property owners with additional tools to be good stewards of their resources. What DNR did not anticipate was the speed with which disinformation propagates through the Web, which acts as an amplifier and confers its own kind of credibility to charges that might appear otherwise ludicrous.

Second, establish personal relationships with legislators and policy-makers. Georgia is largely a rural State, and many legislators from rural districts place a great deal of stock in face-to-face meetings. Making yourself available, and answering every question straightforwardly and nonemotionally goes a long way towards garnering support.

Third, do not assume any archeological knowledge on the part of policy-makers. For instance, while archeologists can easily tell a looter's hole from an excavation unit, many laymen would not see any difference between the two. Concepts like provenience have to be couched in terms that are not intimidating to folks who do not have specialized professional training and who may distrust those who do.

Fourth, never underestimate the opposition or the kinds of charges that they may use to distract attention from their real agenda.

Finally, establish open and full communication with field law enforcement officers. They are on the front lines partnering with local prosecutors and making the cases before local judges with local constituencies. The best law on the books is only as good as the last case, and making a good case depends in part on wise and reasoned enforcement policies.

While OGCA 12-3-621 does not include everything that DNR would have liked, the revised law is a significant improvement. One unanticipated benefit — perhaps the biggest benefit — is that the revised law has piqued an interest in archeological protection for many of DNR's uniformed officers.

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Robert Cast and Timothy K. Perttula

The Long-Term Looting of Caddo Indian Sites on Federal Property in Northeastern Texas

At Lake O' the Pines, near the modern town of Jefferson in northeastern Texas, the looting of Caddo Indian archeological sites — mainly cemeteries and other places of ceremonial significance — has been ongoing since at least the early 1980s. Perhaps more than 800 Caddo Indian burials have been looted on this small piece of Federal property during that time. The lake is under the jurisdiction of the Fort Worth District of the U.S. Army Corps of Engineers and is located in the heart of the traditional homelands of the Caddo Nation of Oklahoma. The Caddo had lived in these pine-covered hills and broad valleys since time immemorial until they were forcibly removed in the late 1830s.

Researchers have documented the pillaging of Caddo archeological sites in this area over the years.[1] The late Curtis Tunnell, former Texas State Historic Preservation Officer, interviewed numerous looters in the area, one of whom proudly admitted that he had "sent his kids to college" by selling burial vessels he had taken from Caddo graves around Lake O' the Pines.[2] Sadly, though, for many years the Fort Worth District did nothing to stop the destruction of the Caddo Nation's heritage, despite their knowledge of the looting and their legal responsibilities under the National Historic Preservation Act, the Archaeological Resources Protection Act (ARPA), and the Native American Graves Protection and Repatriation Act (NAGPRA). The Fort Worth District cited lack of financial resources as their reason for not dealing with looting. The Caddo Nation first became aware of the looting problem in 1993 when Mary Cecile Carter, the Caddo Nation's first NAGPRA director and author of the 1995 book, Caddo Indians: Where We Come From, was briefed by professional archeologists concerned with curtailing the looting.

Looted graves at Lake O' the Pines, TX (41MR122). Photo by Mark Walters.

Since those distressing days, and despite the inaction of the Fort Worth District, the Caddo Nation as a whole has recently taken a more active role in addressing the looting of Caddo sites and graves on Federal property and trying to find reasonable solutions to better protect these sites. This has been a long and difficult effort. In 1999, for instance, the Cultural Preservation Department of the Caddo Nation applied for and received a NAGPRA grant from the National Park Service entitled "Location, Documentation, and Protection of Unmarked Caddo Cemeteries." Part of the grant's purpose was to research how many known Caddo cemeteries are on Federal property, determine their current condition, and assess the success or failure of Federal agencies in assuring the protection of these traditional and sacred properties. One focus of the NAGPRA grant work was the efforts of the Fort Worth District at Lake O' the Pines, where numerous cemeteries, many already looted, are known.

On Saturday, May 27, 2000, Caddo Nation Chairwoman LaRue Parker requested to see some

of the site destruction firsthand. The Caddo Nation Cultural Preservation Department staff, along with Chairwoman Parker, met Dr. Timothy K. Perttula and Bo Nelson, professional archeologists, to view several of the cemetery sites that had been looted. They were shown two cemeteries. At one, there were open grave pits for as far as the eye could see. The graves had been opened since at least the mid-1980s, and although the Fort Worth District was aware of the looting, no effort had been made to backfill the looter holes, document the looting, or bring the situation to the attention of the Caddo Nation.

Perttula and Nelson explained to Chairwoman Parker that at least 250 burials had been looted from these 2 cemeteries, with comparable numbers in other cemeteries around the lake. They explained that every known Caddo cemetery around Lake O' the Pines had been looted. The 16th- and 17th-century Camp Joy Mound (41UR144), which had been in pristine condition in 1989, now had a 3-meter-wide looter's trench dug through the center of the mound.[3] Alarmingly, the Fort Worth District had recently built a water line through part of the Dalton Mound (41UR11), which a Fort Worth District archeological contractor had previously recommended for nomination as a National Register archeological district.[4]

This travesty prompted Chairwoman Parker to request a meeting, long overdue, with the new colonel at the Fort Worth District, Gordon M. Wells, in an attempt to bring the looting situation to his attention and to find effective ways of halting the looting of Caddo cemeteries and mound sites. The archeologists emphasized that the looting activities taking place at the lake were analogous to the United States Government's war on drugs. If someone were planting marijuana on Federal property, every agent and local law enforcement officer in the area would be working to arrest the offenders. Yet for years looters have been removing burials that are protected under a whole suite of Federal laws and making large profits — generally as undeclared income — right under the nose of the Federal agency. Until the agency enforces the law and develops effective management and protection plans for sensitive sites, the looting will continue unabated.

There were several positive but bittersweet results of the meeting. The Caddo Nation requested that the open grave pits be backfilled at all of the cemeteries. Although this has not occurred, the Fort Worth District backfilled grave pits at one of the looted cemeteries in coordination with tribal member and NAGPRA assistant Bobby Kionut Gonzalez. However, the Caddo Nation has yet to see any damage assessments of these cemeteries as required by ARPA.

Chairwoman Parker and the Cultural Preservation Department staff offered to prepare an historic properties management plan for the lake, proposing to include recommendations for site protection and identification of sensitive site areas. This turned out to be a futile offer and a plan has yet to be prepared by the Fort Worth District.

Also at the request of the Caddo Nation, the Fort Worth District agreed that more staff should be hired to help manage the irreplaceable cultural resources at the lake. The Caddo Nation urged the Fort Worth District to pursue prosecutions under ARPA if and when looters and collectors were caught breaking the law on Federal property. Whereas the Fort Worth District was once lax in prosecuting anyone, Matt Seavey, District park ranger, has since gone on record saying, "There'll be no more warnings. Citations will be issued."[5]

The Caddo Nation is urging the Fort Worth District to implement other steps, such as a monitoring system to document and record any looting activities using a Site Vulnerability Assessment, to curtail the looting of their traditional and sacred sites. Archeologists recommended that a team consisting of law enforcement personnel, tribal liaisons, and archeological specialists complete assessments. To date, only Kisatchie National Forest and the Louisiana Air Army National Guard use this format to evaluate the vulnerability of Caddo Indian sites. Should the Fort Worth District choose to pursue this effort, the benefits of the assessments would be threefold: 1) sites that need additional monitoring or surveillance can be identified and site visits given priority; 2) the agency will have a better understanding of where the important sites are and which sites are in immediate danger; and 3) the agency can budget for and develop protection plans.

Monitoring and protecting important archeological sites on Federal land is the responsibility of Federal agencies. Tribes' working with Federal agencies is nothing new, and Federal

agencies' working with tribes is mandatory under Federal statutes.[6] At the same time, it is up to the general public, Indian tribes, and concerned local and State agencies to make sure that Federal agencies fulfill their responsibilities. By law and by Executive Orders, Federal agencies are required to consult with and involve tribes on a government-to-government basis.[7] This consultation requires hearing the views and concerns of tribes impacted by the actions or inactions of Federal agencies. Ignoring the views and concerns of the Caddo Nation has led to a relationship with the Fort Worth District that has often been volatile. Yet only through a cooperative relationship can traditional properties of importance to the Caddo Nation be protected.

Notes

1 Timothy K. Perttula and Bo Nelson, "The Looting of Prehistoric Caddo Indian Cemeteries in Northeast Texas," *Texas Forum on Civil Liberties and Civil Rights* 4, no.1 (1999): 77-86.

2 Notes on file, Texas Historical Commission, Austin, TX.

3 Mike Turner, "A Two-Phase or Tiered Caddo Mound at the Camp Joy Site (41UR144), Lake O' the Pines," *Notes on Northeast Texas Archaeology* 2 (1993): 66-75.

4 Elizabeth Burson and Maynard B. Cliff, *Cultural Resources Survey of Six Proposed Timber-cutting tracts at Wright Patman Lake, Bowie County, Texas and Lake O' the Pines, Marion and Upshur Counties, Texas,* Geo-Marine, Miscellaneous Reports of Investigations 201 (2000).

5 Anthony Davis, "Officials Crack Down on Artifact Looters", *Texarkana Gazette,* (August 3, 2001): 1, 8.

6 Darby C. Stapp, "Tribes Working with Agencies to Protect Resources", *CRM* 23, no. 7 (2000): 41-44.

7 Executive Order 13175.

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Artifacts seized under search warrants for the home of a man who had looted the Petersburg National Battlefield in Virginia weekly over 3 years. NPS photo.

Julia G. Longenecker and Jeff Van Pelt

Tribal Perspectives in the War Against Looters

Education about the impact of looting on Native Americans is producing positive results. When law enforcement officers, prosecutors, and judges understand that these acts of desecration cause real harm to the Indian people, they gain a greater appreciation for the damage done by this "victimless crime." Now when looters are caught, prosecutors are more likely to take the case and judges are more likely to take cases seriously.

CTUIR's Experience

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resource Protection Program (CRPP) started in 1987, focusing on protecting cultural resources on the reservation and within ceded lands located in northeastern Oregon and southeastern Washington. CRPP started with 3 people and has grown into an aggressive program with a staff of 25. The program is a mix of tribal cultural resource technicians, archeologists, and a tribal program manager who conduct surveys, monitor site impact, evaluate sites for listing in the National Register of Historic Places, and engage in other cultural resource stewardship activities.

CRPP has focused on the battle against looting since the mid-1990s. CTUIR along with other tribes implored agencies to comply with cultural resource protection laws. Often agencies said that they didn't see much looting, that looting was not a problem in the mid-Columbia River region. We pointed out that they did not see the looting because they were not out on the river looking for it. We saw it every day. We showed them the looting and pointed out the laws and regulations. Then agencies began taking looting seriously.

Tribes and archeologists in the Northwest began to realize that one of the problems with getting convictions under protection laws was that the local law enforcement community did not know cultural resources laws. Various organizations began sponsoring 2- and 3-day classes on the Archaeological Resources Protection Act (ARPA). Local governments were becoming aware of looting. A local county sent one of its detectives to the Federal Law Enforcement Training Center's (FLETC) Archeological Resources Protection Training Program (ARPTP) and local counties began training their officers about cultural resource laws.

In 1998, we attended the ARPTP class and found that it was thorough, good, and long (5 days), but there was one problem: the instructors did not address Native American concerns. We

Map of the mid-Columbia River region of Oregon and Washington.

A crime scene team investigates a simulated looted housepit during a class in 2000 at the HAMMER Cultural Resource Test Bed in Richland, WA.

did not learn about the impacts that looting village sites and disturbing the graves of our ancestors had on the Indian people. Instead, instructors talked about the loss of data to archeologists and the collective loss of heritage to the United States. This information needed to be enhanced by concern for Native American values.

A New Approach

In 1998, 6 weeks after taking the FLETC class, we had developed our own law enforcement class on catching, prosecuting, and convicting archeological looters. The training team included two prosecutors, a detective, tribal members, a tribal archeologist, and tribal elders. October 2001 marked the fourth year of this training, which included a mix of tribal and nontribal presentations and extensive field work on simulated archeological sites, recently built and then looted by actors posing as suspects.[1] The class has grown from 32 participants to over 90; about half of the participants are tribal members.

Our training began through a partnership between the Benton County, WA, sheriff's department and CTUIR. Our partnership evolved through looting cases. In one successful 1998 case, two men were accused of looting Indian artifacts from Plymouth Island, an important prehistoric village site located across the Columbia River from Umatilla, OR. The arresting deputy did not find the men in the act of digging but suspected them of poaching. He approached them near their car and discovered that they had digging equipment, artifacts, and drugs. A search of their house resulted in the seizure of 11,000 artifacts.

The sheriff's department asked CTUIR to help search the house. We inventoried all of the artifacts, and called in tribal elders to identify the most significant artifacts and to help educate the prosecutor about the cultural significance of the collection. Through this experience, the officers and prosecutor were able to experience the damage firsthand. They saw that someone has been harmed by the destruction that looting had caused. No longer could local authorities view looting as a minor, victimless crime. When Native Americans were brought into the process to explain the damage that results from looting, the impact of looting became severe.

That Native Americans are hurt by these senseless acts of destruction is not a secret. National Geographic Magazine, for example, has discussed impacts on Indians in their looting stories.[2] FLETC has described these impacts in its video, "Assault on Time." Much publicity has surrounded the issue of impacts on Native American from unearthed burials.[3] Archeologists, however, have not often included Native American perspectives in the battle against looters.[4] The source of underlying conflicts about ownership of prehistoric dwelling sites and remains of Indian ancestors is open to debate.

Last year we asked a Benton County Superior Court judge to speak at our tribal archeological resources protection training about his perspective on cultural resource crimes. His short presentation was widely discussed. He referred to the Plymouth Island case as an eye opener for him. His words touched many.

> We gave the victims a chance to speak and they spoke about the cultural significance of the site in question....[The looting] was more than just an intrusion; for the victim it was a burglary.

The judge told law enforcement officers that they needed to understand the law from all sides and to appreciate the reasons for these laws.

We recently gave a presentation on looting awareness to Northwest region tribal court

judges during their annual conference. The positive response from the judges was overwhelming —

> You need to strengthen cultural resource codes on the reservations [because only a few tribes have a cultural resource tribal code].
>
> Quotes from the court records of actual ARPA cases really made us feel it in our hearts.
>
> Continue doing exactly what you are doing.
>
> We didn't know all of this was going on.

The great need for training has driven us to continue exploring new ways to sensitize people to the impacts of looting on Native Americans.

Recommendations

We have several suggestions for combatting looting, many of which can be addressed locally.

Be proactive. Don't wait until there is a looting event. Develop relationships with prosecutors and judges. Meet them. Get involved in cases. Make presentations at conferences, especially those attended by lawyers, prosecutors, and judges. Sherry Hutt, a Superior Court judge in Arizona, reminds us to "educate all lawyers on aspects of cultural property law. From the ranks of the lawyers come the judges. It's good to get them while they're young." Many judges are unaware of the cultural resource laws and their importance to Native Americans.

Emphasize to the public and law enforcement that looting harms people, especially Native Americans. In court cases where the only victim represented is an archeologist who has lost some data, the case may not be very compelling. Judges often are reluctant to convict nice guys in suits with not-guilty pleas. Even when the evidence is convincing that an archeological crime was committed, judges and juries cannot help but compare the harm to other cases of theft, battery, rape, or extortion, where "real people" were hurt.

Use effective language in court. Kristine Olson, former U.S. attorney, District of Oregon, suggested that we need to use strong language to correctly describe what is going on. Say "stealing artifacts" instead of "taking artifacts," "grave robbing" not "disturbing Indian skeletons," "desecrating an ancient village" not "disturbing a prehistoric archeological site." Such words resonate with juries and better describe the nature of the crimes.

Use tribal members to convey the message. Native Americans are often quite effective in communicating the impact of a crime. They are very good at sharing a cultural perspective that many non-native people find compelling. Videotape their comments for use in presentations. One 30-second video segment seen in our region shows a Wanapum Band leader, Rex Buck, Jr., saying —

> How would you feel if I came to your home and took some of your heirlooms that you've had from the past that maybe your great grandfather passed down from generation to generation? And you have . . . the feeling that it's priceless. It can't be replaced. . . We can't replace anything here. We have feeling [for the] land [and] everything that is in the past. Because it's our ancestors, it's our people.

Emphasize cultural significance in addition to importance of scientific data. The court must understand that there are other consequences to looting than those to archeologists, and other uses of the data beyond science. In the Plymouth Island case, the defense hired local archeologist James Chatters as an expert witness. He argued that the artifacts were no longer scientifically important because they had lost their archeological context. The artifacts had been found on the shore, eroded out of their original stratigraphic context, and now were useless. CTUIR responded with a letter from the tribal archeologist who argued that the artifacts and the site were culturally significant to the tribe and that the loss of stratigraphy was irrelevant. The looters were convicted and sentenced.

Call the court's attention to the fact that stolen artifacts are more than buried debris. Tim Simmons, assistant U.S. attorney, Portland District of Oregon, explains that the judge must recognize that artifacts are sensitive objects that should be returned to the tribes, regardless of the outcome of the case.

Archeology curricula need to include more education on Native American perspectives. CTUIR has made a commitment to several university anthropology departments to help educate their students on the cultural significance of Native American sites.

Conclusion

Many successful convictions in Benton County are due to the commitment of local officials, the partnership between CTUIR and the

sheriff's department, and the tribe's aggressive commitment to the partnership. It is up to the archeological community, Federal land managers, the judicial system, and Native American communities to collaborate to combat looting and vandalism.

Notes

1 For more information on the training, see Julia G. Longenecker and Jeff Van Pelt, "Training for Law Enforcement, A Tribal Perspective," *CRM* 22, no.5 (1999): 17-18.

2 Harvey Arden, "Who Owns America's Past," *National Geographic Magazine* 175, no. 3 (1989): 376-392.

3 See Roger Downey, *Riddle of the Bones: Politics, Science, Race and the Story of Kennewick Man* (New York: Copernicus, 2000); David Hurst Thomas, *Skull Wars: Kennewick Man, Archaeology and the Battle for Identity* (New York: Basic Books, 2000); and Roger Echo-Hawk and Walter Echo-Hawk, *Battle Fields and Burial Grounds: The Indian Struggle to Protect Ancestral Graves in the United States* (Minneapolis: Lerner Publishing Company, 1994).

4 Society for American Archaeology, *Save the Past for the Future II: Report of the Working Conference* (Washington, DC, 1994).

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Jeff Van Pelt is the cultural resource manager of the CTUIR's CRPP. He is involved in contract negotiations, consultations, and repatriations. As of 2000, he is acting director of CTUIR's Department of Natural Resources. He helps to protect archeological sites and culturally sensitive resources by developing and conducting training programs.

Illustrations by Julie Longenecker.

Garry J. Cantley

Bureau of Indian Affairs Training on Archeological Resource Crime

Anyone who has dealt with the Archaeological Resources Protection Act (ARPA) and archeological resource crimes soon realizes the complex relationships involved in successful prosecution. When applied to American Indian lands, ARPA presents additional advantages and challenges.

Perhaps the greatest advantage of pursuing ARPA prosecutions on tribal lands is the strong connection between reservation populations and their archeological resources, and the responsiveness of the nation's diverse tribes to the overall goals of ARPA. Another advantage is that tribal courts offer an additional venue for prosecuting archeological resource crimes.

Ironically, a big challenge to applying ARPA on Indian lands often stems from articulating ARPA's goals, which may reveal the conflicting messages of what archeology represents to the Indian community. Moreover, because of complexities in law enforcement jurisdiction on Indian lands, which can include Federal, tribal, State, or even county law enforcement agencies, there is often a disparity in knowledge of archeological resource crimes. Because of staff turnover, law enforcement personnel require periodic and consistent instruction about ARPA and the elements of successful prosecutions. Although not unique to Indian lands, another challenge is how briefly the antilooting message remains in peoples' minds. The fact that looting is illegal and should be reported has not become firmly planted in the consciousness of the Indian population or the Nation as a whole.

Some of San Carlos' finest: tribal rangers (left to right) Whitman Cassadore, Larry King, George Jones, Jerald Thompson, Sr., and Emerson Baylish from the San Carlos Apache Tribe at a recent ARPA-Lite class, Pueblo of Acoma, NM. Photo by the author.

The Bureau of Indian Affairs (BIA), in concert with a growing contingent of Indian tribes, is addressing these issues by actively promoting training as part of a program that remains a work in progress. In recent years, BIA has hosted five of the well-known 40-hour Archeological Resources Protection Training Program classes presented by staff of the Federal Law Enforcement Training Center. BIA sponsored two of these classes directly on Indian lands at the Hopi and Navajo reservations. BIA also hosted and assisted in the development of an important extension of this class entitled "Archeological Damage Assessments," which provides in-depth training in a crucial aspect of any ARPA case. Over 90 percent of all BIA archeologists have attended both classes, with colleagues from other Federal, tribal, and State agencies.

BIA also has developed another training opportunity that is more specific to archeological resource crimes on Indian lands. Referred by its presenters as ARPA-Lite, this class had its origins as a BIA response to a request for training in 1998 by Mervin Wright, chairman of the Pyramid Lake Paiute Tribal Council, following an ARPA violation. The class has since been presented 15 times in 6 Western States, reaching over 300 students. In order to enhance its effectiveness, the training is always free and generally presented on the host tribe's land.

ARPA-Lite training consists of 1 day in the classroom followed by an important one-half day in the field visiting local archeological resources. The first day's typical agenda has settled into seven hour-long presentations that cover an overview of ARPA usually presented by a local assistant U.S. attorney, the role of the archeologist, the host tribe's cultural preservation program, a national perspective on archeological resource crimes, crime scene management, civil prosecutions in both Federal and tribal courts, and prosecution and prevention strategies. In response to the perceived need for increased public education, the training now includes guidelines for interacting with the media provided by a professional journalist.

Collaboration with the affected Indian tribes is basic to BIA's training efforts to combat archeological resource crime. Working closely with the host tribe to present the training enhances the success of the training by high rates of attendance, favorable evaluations, continued requests for training, and an increase in the number of ARPA cases. Other favorable measures include the willingness of Federal prosecutors to provide presentations at the class and, from BIA management, recognition of the need for such training and funding support.

A colleague once noted while we were surveying ARPA training opportunities around the Nation that ARPA is big enough for all such classes and more. BIA is aware of some tribal ARPA training programs and encourages their continued success with an eye towards coordinating our respective efforts. Likewise, we encourage other tribes to develop similar curricula. Locally developed training resonates in tribal communities in ways that training developed regionally or nationally cannot. Training focused on local needs is essential to eliminating looting and disrupting what to tribes may be both sacrilegious and criminal.

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Wendy Coble

Management of Historic Ships and Aircraft Sites

Collecting, or the desire to keep souvenirs, has its roots in mankind's earliest thoughts. The reasons for collecting are as varied as the collectors themselves. For many people the thrill of collecting is having a piece of history. Souvenirs connected with aviation history are not exempt from a collecting interest. Aviation artifacts from military aircraft, "warbirds," have an increasing monetary value, making them real "treasure" and the target of intensive looting efforts. For some collectors, the lure of treasure can be too much to resist. Some collectors reason that souvenirs are there for the taking and believe that no one would notice or care. Not all looters are the same. Many do not know the law and do not realize that removing material from military wrecks is illegal. Some loot intentionally figuring that they will not be caught. But looting a military crash site is illegal, can be very dangerous, and is an avaricious waste of important cultural resources.

In 1993, the Naval Historical Center (NHC) initiated an archeological management program for its historic ship and aircraft wreck sites, both on land and underwater. This program was aided in part by the U.S. Department of Defense Legacy Resource Management Program that was established by Congress in 1991. The NHC's Office of Underwater Archaeology is the U.S. Navy command responsible for managing these sites. Under the National Historic Preservation Act, the Navy is obligated to protect historic properties, including ship and aircraft wrecks, for which it has custodial responsibilities. Navy custody of its wrecks is based on the property clause of the U.S. Constitution and international maritime law, and is consistent with Articles 95 and 96 of the Law of the Sea Convention. These laws establish that right, title, or ownership of Federal property is not lost to the Government due to the passage of time. Navy ships and aircraft cannot be abandoned without formal action by Congress. Ships and aircraft stricken from the active inventory list are not considered formally disposed or abandoned. Under the sovereign immunity provisions of admiralty law, the Navy retains custody of its vessels and aircraft, whether lost in United States, foreign, or international boundaries. The Navy upholds the rights of foreign nations to their vessels in U.S. territorial waters as well.

The Government's claim that only by express act of Congress can military ship and aircraft wrecks be abandoned was recently upheld in July 2000. In *International Aircraft Recovery, L.L.C., a Nevada Limited Company* v. *the Unidentified, Wrecked and Abandoned Aircraft, intervenor United States of America*, the Government won its claim of ownership of a wrecked TBD Devastator off the coast of Florida. The TBD Devastator was the Navy's first all-metal, folding-wing monoplane, produced in the late 1930s. Most TBDs were lost in the Pacific battle of Midway in 1942, when the Navy lost whole squadrons. At the time of its discovery the TBD off Florida was the only TBD in existence. Since that time several more have been discovered. This particular TBD is thought to have survived both the battles of Coral Sea and Midway. Its identity is still not certain.

The Navy encourages the study and preservation of its historic ship and aircraft sites. Divers may explore Navy wrecks, at their own risk, but they are encouraged to report the location of newly rediscovered sites to allow the Navy to evaluate and preserve these important remnants of our collective past. The Navy has also initiated a permitting policy for archeological study and responsible removal. The Navy believes that permitting is the best way to ensure that a maximum of information and material can be saved for future generations.[1] Under no circumstances may salvage of Navy aircraft or shipwrecks be undertaken without permit.

Beyond protecting the Navy's ownership rights, there are other problems associated with illegal tampering. All military wrecksites are dan-

gerous. Military ships and aircraft were built to fight. These vessels carried more external equipment than civilian craft, which can entangle divers. More importantly, however, the vessels also carried live ordnance. As unexploded munitions corrode they become increasingly unstable. It is extremely dangerous to move, remove, or physically investigate these time bombs without the right equipment and expertise. Often munitions will be obscured under marine growth and the first sign of disaster will be evident when someone taps a bomb to see what it is.

There are other less dangerous consequences from looting military wrecksites. Removal of pieces or whole sites to add to someone's personal collection restricts others from discovering or learning about history that belongs to everyone. This is especially true if the collector does not know how to preserve and protect the material for the long term. This activity destroys a finite resource, damaging a site, making interpretation less accurate. Not only is material lost, but any information that a site might have held or could have contributed to understanding the site and others like it is irretrievably lost. Indiscriminate removal could also disturb war graves.

Illegal salvage of cultural heritage is a major concern for all cultural resource managers. Illegal salvage, or looting, will always be a problem as long as there are assets that are not under constant surveillance. Because NHC is responsible for thousands of sites, policing every site all of the time is impossible. Therefore, NHC focuses on deterrence, preferring to be proactive rather than reactive whenever possible.

NHC's proactive stance can take several forms. No two situations are alike, so every situation must be handled with diplomacy and most situations can be resolved without litigation.

Because many people are unaware that removing or disturbing wrecksites is illegal, NHC's first goal is education. NHC is a center for research and scholarly writing. In this setting, the staff compiles data about sites, assesses their environment and the threats to their protection and preservation, and looks for ways to creatively manage sites in the public's best interest. The Underwater Archaeology Branch at NHC collects information on wrecksites to gain a better understanding of how to manage this vast responsibility. This work in progress includes over 3,000 shipwrecks and 14,000 aircraft wrecksites worldwide. Proper education can convince potential looters of the need to protect and preserve the tangible remnants of our collective past. When divers and aviation buffs understand the role that they can play in conserving sites and aircraft, they represent a large corps of volunteers who can spread the preservation message and help to protect sites from illegal tampering.

Another avenue for education is NHC's Website, which reaches millions with information on the Navy's policies and procedures as well as information about sites. In addition, NHC staff publishes articles, talks to school and civic groups, and continually strives to work closely with other cultural resources managers in educating the public. Occasionally, however, education and prevention are not successful, and intervention is necessary to ensure that looted items are returned.

The intervention of Naval, State, and Federal law enforcement investigators usually results in the return of Navy property. Because situations and the individuals involved vary, it would be inappropriate to use the same response for all. This is where diplomacy becomes paramount. The Government usually attempts to work with an individual based on the circumstances and the individual's willingness to cooperate. For instance, in early 2000 NHC was notified that a Revolutionary War bronze swivel gun was offered on the online auction site eBay. NHC notified the U.S. Justice Department, which in turn contacted eBay requesting the identity of the seller and received full cooperation. The Justice Department then notified the seller that he was attempting an illegal sale. The seller was told to cease and desist in his activities and was asked to return the property to the U.S. Government. Although the seller had purchased the gun at a gun show and had not been the one to remove it from its site, the seller was most cooperative and brought the gun to NHC. Within months the gun was placed on loan to the Lake Champlain Maritime Museum not far from where it was found. A similar situation occurred several months later with an historic Navy painting for sale on eBay.

Another example in the early 1990s involved an F6F Hellcat found off of the New England coast. A group of local aviation enthusiasts reported the find to NHC so that they could recover it for their museum. The Navy felt that the finders were ill-equipped to handle the recov-

ery safely and stabilize an aircraft retrieved from salt water, both of which are costly and time-consuming endeavors. Their request was denied. The group proceeded to recover the aircraft despite the denial and severely damaged the aircraft. Although a lawsuit was threatened, the Government was able to resolve the matter equitably by allowing the museum to borrow the Hellcat for display in a long-term loan from the Navy. The museum agreed to be responsible for conservation and restoration, which, although a lengthy procedure, is steadily progressing.

Rarely, a situation will result in litigation, as in such cases as the TBD Devastator previously mentioned, recovery of the bell from CSS *Alabama*,[2] and illegal recovery of a military aircraft from an underwater crash site.[3] In cases of litigation, NHC does not prosecute, but is represented by the Department of Justice, usually with the assistance of others including the Office of the Judge Advocate General and the Naval Criminal Investigative Service.

Before anything can be done about looting of a Navy site, NHC must be made aware that a crime has occurred or is about to occur. Information is acquired through a network of sources. Cultural resource managers, both State and Federal, often notify NHC of potential problems. Occasionally online auction houses place Navy material up for sale where someone sees it and notifies authorities. Sometimes a salvor's competitor will inform NHC of something being planned or actually being done illegally.

Cooperation is vita, and NHC appreciates any assistance offered. NHC relies on Federal, State, and local law enforcement as well as cultural resource managers at every level. NHC can, in return, offer guidance in dealing with similar situations. NHC seeks to educate divers and collectors in the ethics of protecting fragile finite resources.

Notes

1 The permitting policy has been published in the Code of Federal Regulations as 32 CFR 767.

2 *United States* v *Richard Steinmetz*, 1992.

3 *United States* v. *Peter Theophanis*, 1995. The case was lost because the Navy thought that a protected aircraft had been recovered, based on the unique Bureau of Aeronautics Number, but the aircraft had been misidentified. Theopanis recovered a military aircraft, but not the one with the number cited.

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For more information about the Navy's policies and procedures with regard to historic ship and aircraft wrecksites, please visit the <www.history.navy.mil> Website. A policy fact sheet, which lists all applicable Federal laws and regulations, is available in the Underwater Archaeology Branch section of the Website.

Online auctions represent a burgeoning global market for archeological resources. Thus far, there is no effective way of monitoring auctions for illegal trafficking. Photo by Robert D. Hicks.

Leif Häggström

Using Local Groups to Prevent Looting
An Example from Western Sweden

In 1995, a prehistoric solid gold torque (necklace), found in Vittene, Västra Götaland, western Sweden, was reported to the Älvsborg County Museum. Archeologists surveyed the area with metal detectors and discovered four more gold objects near the torque findspot. The Vittene hoard, one of the biggest prehistoric gold treasures found in Sweden, was complete. Naturally, it attracted attention, both good and bad. The Vittene case study demonstrates the value of enlisting local history groups in protecting sites. An overview of legislation concerning prehistoric monuments, sites, and objects is relevant to understanding Swedish legal protections.

The first legislation concerning prehistoric monuments was passed in Sweden in 1666, when the country was one of the major powers in northern Europe. The law stipulated that the state assumed ownership of all precious objects found in the ground. Prehistoric remains have been well protected ever since. Currently, prehistoric artifacts found in Sweden must be turned over to the state cultural heritage management. If objects made of precious metal are found in places where no monuments or sites are registered, the finder receives a reward based upon the metal value of the object. A symbolic supplement to the value is also added; the symbolic premium to the Vittene torque was about five times its gold value.

In the 1980s much metal-detector looting took place on Gotland and Öland in the Baltic Sea, islands rich in precious metals. The looting created great national concern about preserving prehistoric resources, so legislation was amended to prohibit the use of metal detectors on Gotland and Öland. Later, the prohibition was expanded to include all of Sweden. Although the law does not forbid owning a metal detector, the local county administrative board must give permission to use it.

Government authorities considered the Vittene site secure after the primary metal-detector survey was carried out in 1995. Initially, the media were not informed about the exact provenance of the treasure, but after the survey a press conference was held on the site. During the spring of 1996, however, visitors to the site discovered that looters using metal detectors had

A map of northern Europe showing the islands of Öland and Gotland in the Baltic Sea and Vittene on the western part of the Swedish mainland. Illustration by Samuel Björklund and Leif Häggström, Jönköping County Museum, Sweden.

The Vittene hoard, dated to the 1st century A.D. Photo by Ola Eriksson, Älvsborg County Museum, Sweden.

damaged the area. As the looters had not bothered to fill in the holes, their activity was obvious: some 50 spade-dug holes covered the most archeologically interesting field. Government authorities began to talk to local residents, who provided relevant information. First, the nearest neighbor had been having problems with the motion detectors on his own property during the winter. Someone had been manipulating the detectors' settings. Further, a local photographer who lived about a mile away was sitting in his study late at night when he observed strange lights moving about on the looted field. He did not reflect upon the event until he read about the looting in a local newspaper.

Because of the looting, the investigators pursued an innovative strategy: they began collaborating with local history groups, which are common in Sweden. Often these groups cover only a single parish and they show a friendly rivalry towards similar groups in parishes nearby. Investigators worked hard to meet with and invigorate groups in the looted area, resulting in useful information concerning significant but previously unknown sites. Through contact with investigators and the county museum, the locals became more aware of the cultural landscape in which they live and they also learned to be more observant of suspicious activities in the area. A local military officer even offered to call in soldiers to patrol the area—the offer was declined.

Despite this increased cooperation, two more looted sites were discovered 2 years later when archeologists widened their metal detector survey in the area. One of the new sites was fairly remote, about a mile from the Vittene site. Here, the looters probably worked undisturbed at night by flashlight. The discovery of the second looted site was quite alarming. Near a medieval church, the site was similar to late Iron Age graves in the region, but before the site was discovered no finds had been documented. The site lay exposed close to a local road between the village and the parish church. The farmer who owned the field was incapacitated due to an accident a couple of months earlier, and the looters had been able to work without fear of observation from the neighboring farm. The 200-250 spade-dug pits in the field revealed that the looters must have been working for an extended time. The extent of the looting indicated that multiple looters were involved, possibly with a lookout to sound the alarm if someone came by the nearby road. A minor test excavation in the field did not reveal any signs of prehistoric cultural remains, so hopefully the looters labored in vain.

In all, archeologists estimate that about 3 percent of the area surveyed had been looted but, without having enlisted locals, the percentage would have been larger. The lure of precious metals, the possibility of locating unusual prehistoric artifacts, and the ease with which looters can gain access to a relatively unprotected area with publicized sites militate against protection and conservation. Despite the protection of the law, neighbors and local history groups must be recruited to provide casual surveillance of cultural resources. Government authorities must work to convince citizens that buried artifacts constitute much of their cultural heritage, and that citizens, in fact, own the resource.

Leif Häggström wrote a licentiate (a Swedish degree between M.A. and Ph.D.) treatise on the archeology connected to the Vittene hoard and is currently working as curator/archeologist at the Jönköping County Museum, Sweden. His e-mail address is <leif.haggstrom@jkpglm.se>.

Michael Trinkley

Securing Cemetery Plot Gates

The theft of cemetery art such as statues, fences, and other artwork is common and profitable. Just how profitable is difficult to determine, but for years the media have periodically brought the problem to the attention of the public. For example, a 1996 Associated Press article in the Abilene, TX, Reporter-News quoted detective Richard Peavey, "A dealer can buy a piece for $200 or $300, or even go to a cemetery and get it himself for nothing, and then turn around and sell it for $1,700-$1,800 or more."[1] His investigation found a thriving black market for statues, marble urns, and wrought-iron fences in northeastern Texas. In 1998, USA Today reported on the newest craze, "cemetery chic," a design fad for stolen cemetery artwork and fences. The good news, at least for New Orleans, LA, was that there had been arrests and the recovery of a hoard of stolen goods, all from the "Cities of the Dead."[2] A year later, Preser-vation News highlighted the progress made by New Orleans in curbing the "widespread . . . brazen [and] lucrative" theft of graveyard items. The article reported that the New England Cemetery Association was encouraging owners of plots to report thefts, about the only advice that was offered.[3]

The picket top or gate finial partially covers the cemetery gate eye, preventing the gate from being lifted off of its hinges.

Not all communities, however, have been as fortunate as New Orleans. In South Carolina, for example, police tracked a gang of fence thieves, that hit at least five cemeteries, some during broad daylight, over a 2-month period. The route could be traced on a map, but police were always just a city behind the thieves.[4] At one cemetery in South Carolina a 200-year-old English gate was stolen and, in spite of a $1,000 reward, was never recovered.[5]

The general agreement is that iron gates are easy targets. Many historic cemeteries are isolated, rarely visited, and poorly maintained. Even in cemeteries where visitors and oversight are common, gates can be quickly removed, placed in a pickup, and the thief long gone before anyone notices or can react. Gates also are profitable, being sold for anywhere from several hundred to several thousand dollars, depending on the style, condition, and market. And it appears that the chance of getting caught seems rare — the New Orleans experience notwithstanding. Gates are rarely photographed or marked, so proving ownership can be impossible.

While there are no simple solutions, there are steps that cemetery caretakers can take to reduce theft and improve chances of recovery. Most of the preventative steps involve a common practice, "hardening the target," making it less vulnerable to attack or theft. But prevention should also be coupled with appropriate documentation of gates. Should the worst occur, good, detailed photographs of the gate will not only help to identify the gates if recovered, but can also put pressure on those who might accept the object, thus making it more difficult for the thief to dispose of the gate.

Hardening the Target

Probably fewer than 5 percent of the gates that I've seen in nearly 20 years of research have been secured. In a few cases the pins are so corroded that removal would be difficult. In a few other cases the design included some device to prevent or inhibit the gate's removal. But most can be easily removed, with theft often requiring only a few seconds.

Certainly the first step is careful examination of a gate to determine how (and how easily) it can be removed. One of the largest manufacturers of the late 19th century — still in business today — is Stewart Iron Works.[6] Virtually, all of their gates were secured using what is called a drop rod, placed through pins or sockets on both the gate and the gatepost. Removing the gate simply involves removing the drop rod. Many other gates use a simple hook and eye combination, allowing the gate to drop into position; removing them is just as easy. Very few gates have closed hinges, where the design inhibits removal. Others, while having hook and eye hinges, have additional modifications to make removal more difficult. The photograph on the previous page reveals that a picket top (probably screwed onto the top rail) partially covers the gate eye, making it impossible to remove the gate.

Any effort to prevent theft should be reversible and should respect the historic fabric. In other words, while welding a gate shut would dramatically reduce its potential for theft, the fence's historic character would be dramatically altered. Cutting, drilling, and other nonreversible approaches should also be avoided.

For gates with drop rods, one technique to reduce the ease of theft is to weld or braze a bar to the terminal end of the rod to prevent its removal.[7] Defeat of this technique can be accomplished only by cutting the end of the drop rod or by removing the welded or brazed bar. Efforts to violently remove the gate, while typically unsuccessful, will cause collateral damage to the gate, gatepost, or adjacent fence section. This technique can be effective for gates with hooks, assuming that the hook or pin projects high enough above or below the eye. While welding or brazing bars on both the upper and lower hinges achieves the best results, even modification of one will significantly harden the target, making theft less likely.

Does such an approach alter the historic fabric? Is it reversible? The answer depends on the care and sensitivity of the approach. Poor workmanship, coupled with an oversize bar, is likely to detract from the original appearance. Welds can be removed, although admittedly they do alter the original drop rod, since welding relies on melting the metal. Nevertheless, it can be argued that under certain circumstances, such as an area with a high incidence of past theft or a rural area where oversight is not possible, welding is far preferable to losing the gate.

In cases where welding may be impossible or inappropriate, another approach is to install stainless steel aircraft cable with ferrules to create a loop joining the gate and gate post. Appropriate diameters are 1/8-inch (3 mm) and 3/16-inch (5 mm). Larger diameters are typically difficult to form and far more obvious. Smaller diameters provide significantly reduced security. While this approach is more intrusive (and visible), it is reversible. It is also, admittedly, less secure since good cutters can gradually work their way through the cable. The point is that the cable slows the would-be gate thief just as a lock on a door slows a house thief. An alternative, especially for short-term use, is vinyl-coated zinc cable, which is commonly available at hardware stores. Using vinyl-coated zinc 3/16-inch cable, a gate can be secured for as little as $2.00 in materials.

Finally, it is possible to use locks to secure gates. At times the gate includes a hasp or other locking device that is still functional. A limitation, of course, is that maintenance workers are then unable to enter the plot for mowing and other activities. Under some circumstances removable shackle padlocks may be used, if the shackle is sufficiently large to attach the gate to the gatepost. Keyed cable locks also might be effective. These are similar to aircraft cables, but are thicker and more secure, and are keyed for easy installation and removal. While many of these mechanisms offer exceptional security, they

An example of closed hinges, where design inhibits removal of a cemetery gate. Unfortunately in this case, the hinge post has been disconnected from the top and bottom rails, and the gate is unsecured.

are also rather intrusive, detracting from the gate and its setting.

Preservation may sometimes involve removing a gate from the cemetery for safe storage, although this should be viewed as a short-term measure, not as a permanent solution. Not only is safe storage difficult to find, but removed from its context, gates often lose their historic significance. It is worth noting that gates that are already damaged or no longer properly set are particularly vulnerable to theft. At times they are crudely secured to a more stable fence section using baling wire, although more often they are simply leaned up against a tree. Loose gates should be carefully secured until they can be repaired and reset.

Recording and Marking

Like any piece of valuable property, cemetery gates should be carefully recorded. The best approach is to take good quality photographs, showing the fence against a neutral backdrop, complete with both horizontal and vertical scales. Closeups should be taken of special details, such as name plates, unusual decorations, or evidence of previous damage or repairs. The goal should be to capture images that are sufficiently detailed to allow identification of the gate should it be stolen and later recovered. The photographs should be treated like any museum documentation and carefully retained. Negatives should be stored separate from prints to ensure an additional degree of long-term preservation.

Some manufacturers today discreetly number individual gates. The purpose of the serial number is to help track stolen gates and return them to their owners. Even old gates may be marked with a distinctive number, perhaps the social security number of the plot owner or the Federal Employer Identification Number of the cemetery. Electric engraving tools can be used to etch numbers into the gate, perhaps under the bottom channel rail or on the side rail against the gatepost. Another alternative is to use a welding bead to place a number on the gate in an inconspicuous location. While both approaches disfigure the gate, this may be appropriate if the risk is sufficiently high.

Finally, caretakers should report all theft and vandalism to the local police or sheriff's department. There is little chance that unreported items will ever be returned. Moreover, by reporting the loss, you begin to help the local authorities detect patterns in crime that may ultimately lead to arrests. In addition, if you have good photographs of a stolen gate, post notices of the theft, send copies to antique dealers Statewide, and issue press releases with the story. Send information to local and Statewide historic preservation organizations, and offer a reward. These steps help to attract attention to the theft and may make it more difficult for the thief to find a buyer, at least locally.

Protecting resources in historic cemeteries requires some thought and advance planning. Once items are stolen it's too late to contemplate improving security or making changes. Like all disaster planning, take proactive steps to ensure that your cemetery is protected and preserved.

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4 "Vandals Steal Ornamental Iron Cemetery Gates," *Columbia, SC, The State*, May 24, 1998.

5 "A Reward Offered for Return of Historic Gate," *Columbia, SC, The State*, February 25, 1998.

6 Stewart Iron Works Company, P.O. Box 2612, Covington, KY 41012, telephone (859) 431-1985. They not only produced an extensive line of fences and gates, but also sold to a number of other firms which applied their own name, including Cincinnati Iron Fence Company and Sears Roebuck and Company.

7 Welding is a method of joining metals by melting and fusing the two pieces. In contrast, brazing connects the two pieces by using a small amount of alloy metal that melts and flows between the two close-fitting parts. One benefit of brazing is that it is less likely to warp or damage of the material being joined. Done correctly, a brazed joint is often equal to a welded joint. The disadvantage is that brazing requires that the two pieces fit together tightly.

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Inadvertent Vandalism

The Hidden Challenge for Heritage Resource Management

Concerns about reducing or eliminating threats to the nation's heritage resources have a deep history in American archeology.[1] Nearly a century ago, widespread recognition of the destructive consequences of unregulated use of the archeological record helped secure passage of the Antiquities Act of 1906.[2] Motivations[3] and vagueness aside,[4] the 1906 act is the keystone statute that, in conjunction with the Archaeological Resources Protection Act of 1979 (ARPA) and the National Historic Preservation Act of 1966, safeguards America's heritage resources.[5] Although designed principally to regulate excavation of archeological sites on Federal lands and to prevent unauthorized removal of their contents, these laws presume that acts of deliberate vandalism, such as looting and defacement,[6] are committed by people who are motivated to possess objects of the past[7] or behave maliciously. Section 1 of the Antiquities Act, for example, states that convicted violators will be fined or imprisoned if they "appropriate, excavate, injure or destroy any historic or prehistoric ruin or monument."[8] Similarly, Section 6(a) of ARPA stipulates that "No person may excavate, remove, damage, or otherwise alter or deface any archeological resource."[9] By these standards, the following cases from Kaibab National Forest might be considered violations of the law. In one instance, soil dug from the artifact-rich plaza in front of a masonry structure was used to extinguish a fire in a hearth-ring that had been constructed with the ruin's architectural debris (photo below). In another occurrence, a masonry roomblock had been partially dismantled in order to provide rock for the construction of an unusually large campfire hearth (photo p. 43). There is no evidence to suspect, however, that these heritage resources were disturbed for reasons other than they supplied convenient sources of material — soft dirt in the latter case and rocks in the former.

Large hearth constructed of architectural debris from an adjacent 11th-century ruin.

This article explores the consequences of inadvertent vandalism, which refers to acts that alter the postabandonment properties of heritage resources — such as site size, artifact number, artifact density, condition — that are independent of the resources' historic, aesthetic, or economic qualities. The discard of trash and the construction of structures on the surfaces of heritage resources, as well as the intrusion of hearths through them, are examples of inadvertent vandalism. As numerous studies have shown,[10] the interpretive potential of heritage resources is degraded by modern activities that modify surface properties, mix surface and subsurface material, or cause erosion.[11] Although specific resources are not targeted in inadvertent vandalism, the integrity of resources can be diminished dramatically nonetheless — in some cases literally overnight — by people who are unaware that they are behaving destructivly in an archeologically rich landscape. As R. N. Clark notes, "In some cases, recreationists who have little contact with the environment may really not know what

Hole dug into an artifact-rich plaza to extinguish a campfire within a hearth that had been constructed of architectural debris from an adjacent 11th-century ruin.

is defined as vandalism."[12] We would expand Clark's observation by adding that recreationists and other users of public lands may not know what constitutes a heritage resource. Hence, in contrast to the more sensational cases of intentional vandalism that have been the usual focus of law enforcement and prosecution, inadvertent vandalism may pose a far greater challenge to those agencies responsible for protecting the Nation's heritage resources.

A Study of Inadvertent Vandalism

To illustrate these points, we present some data and analyses regarding the degree to which heritage resources have been affected by inadvertent vandalism in an area called the Upper Basin, which is located in Kaibab National Forest just south of Grand Canyon National Park in north-central Arizona. Like many regions of the American West, the Upper Basin is mantled by a dense pinyon-juniper woodland and contains abundant heritage resources.[13] The Upper Basin Archaeological Research Project (UBARP) has completed a double-intensive archeological survey of 14 square kilometers of the Upper Basin, which means that the same terrain has been surveyed at least twice by crew spaced about 10 meters apart. With GPS technology, the UBARP survey has recorded the locations of 810 Mapping Units (MU). An MU refers to any observable phenomenon, such as a structure, a fire-cracked rock pile, or an artifact concentration, whose origins cannot be attributed to natural processes.[14] Of several observations made about the condition of an MU, particular attention is paid to whether any postabandonment material has been deposited, such as trash, woodcutting slash, or campfire rings or hearths. These observations allow us to gauge the extent of two principal types of inadvertent vandalism — woodcutting and camping.

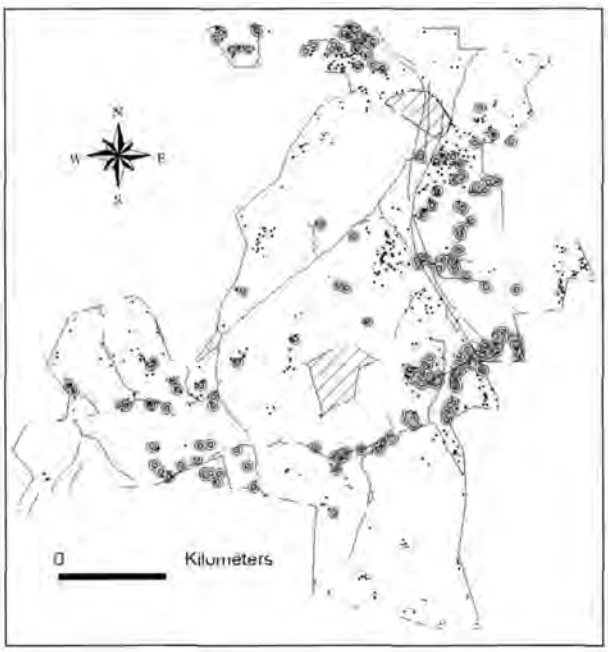
Of the 810 MUs logged by the UBARP survey, for instance, 24.1 percent disclose evidence of woodcutting such as stumps, slash piles, sawdust, and discarded chainsaw oil containers. As an indication of how widespread woodcutting is throughout our project area, MUs that have sustained woodcutting are as likely to be near roads as those MUs that have not. This finding is attributable to the fact that four-wheel-drive and all-terrain vehicles allow woodcutters to reach virtually anywhere in the countryside. Lamentably, prehistoric structures are particularly susceptible to woodcutting damage because conifers thrive in the ruins' fine-grained sediments. In these cases, public lands take a double hit because live trees are being harvested directly from heritage resources.

Two lines of evidence show that camping, signified by brush structures, scatters of trash, and campfire rings or hearths, is the most potent type of inadvertent vandalism sustained by the Upper Basin's heritage resources. First, we have documented the locations of 344 campfire hearths with GPS technology. Of these, exactly one-half occur within 40 meters of a known MU, and 28.2 percent are situated directly on a MU. Although the U.S. Forest Service promotes "no trace" camping, these data indicate that such admonitions are largely unheeded. In addition to the hearths, several makeshift "bucket" toilets have been discovered; these violate official policies on human waste disposal.[15] Second, and in striking contrast to the factors promoting woodcutting damage, MUs impacted by camping are far more likely to be located near roads than MUs not impacted by camping. In all likelihood, the availability of level ground and ease of access to paved roads, especially for recreational vehicles, are the principal landscape features affecting peoples' decisions about where to camp. In addition, most Upper Basin camping occurs within a few hundred meters of a major State highway, and much of this activity is "spillover" from Grand Canyon National Park's Desert View campground. This campground is available on a first-

come, first-served basis and during the peak tourist season is sold out by 8:00 a.m. The only alternative for late arrivals is camping in Kaibab National Forest, which is advice commonly issued by park rangers. Clearly, inadvertent vandalism caused by camping in the Upper Basin is an interagency management problem.

Managing Inadvertent Vandalism

Since the UBARP survey was inaugurated in 1989, we have witnessed acceleration in the rate and scope of inadvertent vandalism. Because camping and woodcutting account for the vast bulk of the impacts sustained by the Upper Basin's heritage resources, it is unlikely that conventional approaches designed to control deliberate vandalism will be effective,[16] especially in view of the dramatic reduction in law enforcement budgets. We recommend two cost-effective measures to counteract this widespread and growing problem. First, designated campgrounds placed on level ground with fenced perimeters will discourage the establishment of new hearths and retard the expansion of camping-related impacts during the height of the tourist season in late spring through late summer. In the specific case of the Upper Basin, such campgrounds could be established quickly because an archeological survey already has been conducted in the area that would be affected by construction.[17] Second, because woodcutting is not dependent on campground availability or designated roads, a different management strategy is needed to control its effects. In our view, strategically placed access gates, equipped with locks activated by a barcode on special-use or woodcutting permits, would inhibit woodcutters from gaining access to archeologically sensitive areas. Unless restricted, woodcutting threatens not only unprotected heritage resources but the ancient conifers that grow on and around them.



Upper Basin Archaeological Research Project study area showing locations of 810 mapping units and "impact haloes" around modern campfire hearths. Stippled area is unsurveyed

Concluding Thoughts

Inadvertent vandalism profoundly affects surface archeological phenomena, the starting point of all archeological research[18] and the basis upon which most Federal heritage resource management decisions are made.[19] There are reasons to suspect that because inadvertent vandalism impacts the surface archeological record, its effects are considered less destructive or problematic than those of deliberate vandalism, which often targets buried deposits. In addition, because the bulk of legalistic discussion has focused on acts of deliberate vandalism, whether inadvertent vandalism carries the same penalties, even though inadvertent vandalism is unquestionably a significant aspect of the "archaeological resource protection problem."[20] Until unambiguous legal opinions are rendered regarding the punitive consequences of inadvertent vandalism, it would seem prudent to seek remedies in containment strategies rather than in the courtroom.

Our Upper Basin study illustrates, moreover, how archeologists have failed to educate the public on the importance of archeological variability.[21] The public's image of archeological remains typically is based on accounts involving comparatively large, spectacular sites[22] that are the least common features of regional archeological records.[23] Until public education efforts incorporate consideration of the full range of phenomena that archeologists routinely investigate, such as diffuse artifact scatters, unobtrusive structures, and piles of fire-cracked rock, widespread ignorance of what constitutes America's heritage resource base will ensure its continued decline.

The impacts of inadvertent vandalism on heritage resources are as consequential as they are unappreciated. The bad news is that, because vast areas of the Nation lack the large obtrusive remains that looters prefer,[24] inadvertent vandalism represents an unchecked threat to the preservation of the archeological record. The good news is that modest reallocations of Federal resources — human, operating, and research —

will go a long way to suppressing activities that, by any measure, are unacceptable to all managers and users of public lands.

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Illustrations by Alan P. Sullivan III.

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Safeguarding an Archeological Legacy
Preventing Site Looting on Private Land

Although challenging, there are ways to prevent looting of archeological sites on private land. Archeological sites on public and tribal lands are fairly well protected from looting by existing Federal laws, such as the Antiquities Act of 1906 and the Archaeological Resources Protection Act (ARPA), and by similar State laws. Archeological sites on private lands, however, receive much less protection from Federal, State, and local laws, and private landowners have considerable freedom to do what they want on their own land.

A private property owner can be either the strongest guardian against site looting or the primary threat to a site's continued existence. As land stewards, property owners can actively manage their own sites, invoking laws against trespass, theft, property damage, and other laws established to protect private real and personal property. Landowners may also, with a few exceptions, legally dig up archeological materials from their property and sell them to the highest bidder.

The primary laws against archeological site looting and vandalism — the Antiquities Act, ARPA, and their State equivalents — work by ensuring that site excavation is appropriately conducted under permit and by prosecuting those who don't have such permission. Unfortunately, these laws generally do not apply unless a site is looted, or if a property owner excavates a site on his/her land or has given permission for someone else to do so.

Private property owners, however, do not have as much freedom in the use and control of their land as is commonly believed.[1] Approximately 20 States have enacted burial laws to protect marked and/or unmarked burials and cemeteries on private land, although these laws tend to stress reburial following excavation rather than preserving the burials in place.[2] Through State and local exercise of police power for the general public health and welfare, private property rights are limited or controlled in a number of ways, and these controls can help protect archeological sites.

There are a variety of legal and voluntary tools to help protect archeological sites. No single tool will be effective in all situations. Successful site protection results from applying a range of tools in various combinations depending upon circumstances. The following are just some of the tools that can be effective in preventing site looting.

Legal Tools

Land ownership. The strongest and surest way to protect an archeological site is through outright ownership and careful stewardship and management.

Land-use and development regulations. By exercising police authority through planning, zoning, subdivision, open space conservation, and other means, local communities establish archeological site protection as public policy and can control activities on private land.

Information Management Strategies

Information confidentiality. Restricting access to site information limits the number of people who know site locations. This strategy may not be totally effective, because the serious looter probably knows more about site location than do those charged with protection.

Sharing information. If you seek the assistance of others in protecting sites, site location information must be judiciously shared.

Accurate site inventories. Up-to-date inventories of known archeological sites or officially designated sites such as national, State, or local registers, can be linked to public policy statements about cultural resource protection in the local comprehensive plan, local ordinances, and/or State land use statutes. This information is critical in planning and making land-use decisions.

Program Strategies

Site management. Responsible site protection is achieved through a long-term management program that includes a site management plan, documentation, security, maintenance, monitoring, and appropriate research. Site pro-

tection does not need to be complicated or expensive to be effective.

Site stewardship. Volunteer site stewards help absentee landowners protect sites by regularly visiting protected sites and reporting on site condition.

Public education. Educating the general public, landowners, law enforcement officers, planners, building inspectors, zoning administrators, and others helps to build a stewardship ethic and increases understanding of archeological values and protection strategies.

Physical Tools

Fencing. Fences mark site boundaries, restrict or guide visitor access to a site, provide site security, and may deter the hobby looter, but they won't stop the hard-core looter.

Signs. Signs are effective in reducing looting by explaining site values, interpreting site history, providing legal notice of prohibited uses, and warning of penalties for violations, but they may not deter the hard-core looter, and should not be placed at inconspicuous or remote sites.

Camouflage. Disguising or burying an archeological site to make it less conspicuous and accessible is an effective site protection strategy.

Site maintenance. A well-maintained site shows that it is valued and visited, and is at reduced risk of looting.

Regular human presence. A site that receives regular and frequent visits through site monitoring or law-enforcement patrols deters looters and vandals who prefer the seclusion of a remote site.

Electronic surveillance. Heat sensors, motion detectors, sound monitors, and hidden still or video cameras alert law enforcement to unauthorized entry onto a site.

These are just a few of the many tools for protecting archeological sites on private lands. For more detailed information about these and other tools, please examine the sources and Websites shown in the box below.

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State and Federal law enforcement officers recover evidence and take casts of shovel impressions at a mock looted site at an Archaeological Law Enforcement class taught by Archaeological Resource Investigations, cosponsored by the FBI and the Commonwealth of Virginia, Richmond,VA. Photo by Robert D. Hicks.

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