PERSONHOOD POST-MORTEM:

A SURVEY OF ETHICAL POLICIES

WITHIN COLLECTIONS OF HUMAN REMAINS

by

Anna-Colette Haynes

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ABSTRACT

The aim of this study was to survey changing ethics policy within collections containing human remains. This was conducted in in the context of the April 2021 controversy which centered around the University of Pennsylvania's and Princeton University's handling of the skeletal remains of victims of the 1985 police bombing of the MOVE residence. Although discussions of ethics had been developing since the 1990s, multiple museum, anthropology, and public officials denounced the ways in which these remains were used and asserted that they would be re-examining their policy relating to collections policy of human remains. However, the practical implementations of these re-examinations have remained in private discussions among collections professionals. To investigate the consensus among collection professionals of human remains collections ethics and their current developments, this study aimed to differentiate collection purposes by their historical lineage and to compare ethical museum policies of acquisition, documentation, access, and repatriation. The survey was sent to fifteen collections, but only six replies were received, primarily from curators and collections managers of medical and forensic collections. Those that did participate did not have a formal written policy regarding the treatment of human remains and relied on general collections practices or informal ethical discussions. To gain a perspective of unwritten institutional policies, the focus of the study was changed to anecdotal evidence of institutional attitudes and policy development given by interviews of five out of the six responders. This study concluded that the most widely agreed upon ethical policy is to establish and maintain documented provenance of human remains within collections, but issues of acquisition, access, removal or return, and training policy have yet to come to field wide consensus.

Chapter 1

INTRODUCTION

A Brief History of the Collection of Human Remains

This study begins with a brief history of the collection of human remains. It is important to preliminarily establish that these collections were created without modern ethical considerations and that those collecting human remains did not perceive their actions as unethical. This is not to say that historical perceptions of death, the collection of bodies, and the handling or alteration of bodies was 'of a different time' and cannot be critiqued under the modern perspective. However, it is important to recognize that early collectors, primarily white upper-class men, did not even apply their own standards of ethics to the lower class, non-white, enslaved, and people otherwise considered less than a 'person.' This resulted in asymmetry within the development of human remains collections: the collectors maintaining an enlightenment philosophy of individualism and the collected whose body was reduced to what they could offer the greater good. The ethical and philosophical idea of personhood will be further explored in a later section, but the study must begin with the formation of human remains collections.

The practice of collecting human remains developed out of the rise of anatomical education during ninth to thirteenth century Europe. During the high medieval era, anatomical education was focused on classical works, such as that of Galen and Islamic writings such as that of Abu ibn Sina's Canon of Medicine.[1] The first established European medical school was the *Schola Medica Salernitana* in Southern Italy, which taught primarily using existing literature due

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[1]Omar Habbal, "The Science of Anatomy: A Historical Timeline," *Sultan Qaboos University Medical Journal* vol. 17, 1 (2017): 18-22. doi:10.18295/squmj.2016.17.01.004

to the restriction of post-mortem mutilation enforced by the Church.[2] In 1231 CE, Frederick II allotted every medical school at least one body for dissection.[3] These dissections were carried out on executed criminals in a practice of posthumous punishment. Unlike the later practice of grave robbing to acquire human cadavers, posthumous punishment explicitly defined dissection as additional to capital punishment and an alternative to "gibbeting."[4] Following from to the Church's belief in whole body resurrection, the earliest dissections were not only an effort to provide social purpose to executed criminals, but to further punish them by corrupting the soul.[5] The practice of posthumous punishment by dissection was written into British law in The Murder Act of 1752, also titled "An Act for the Better Preventing the Horrid Crime of Murder," in which those convicted of murder would be delivered to the College of Surgeons.[6] The first ethical considerations for the collecting of human remains were not ignorant of the person's beliefs or values, but an intentional violation.

As anatomical studies developed during the western Renaissance, dissection became an integral and expected aspect of medical education and major strides in the study of anatomy followed. The first human dissection manuals, *Anathomia Corporis Humani* and Andreas Vesalius' *De Humani Corporis Fabrica*, came out of this period of European history,[7] but the need to supply medical schools with enough cadavers for dissection also led to the practice of grave-robbing. For many medical institutions, the cadavers provided by criminal execution were not sufficient for education and these institutions relied on their own excavations or resurrection

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[2] Habbal, "The Science of Anatomy: A Historical Timeline."
[3] Alexandra Mavrodi and George Paraskevas, "Mondino De Luzzi: A Luminous Figure in the Darkness of the Middle Ages," *Croatian Medical Journal* 55, no. 1 (February 2014): pp. 50-53, https://doi.org/10.3325/cmj.2014.55.50.
[4] Mary Roach, *Stiff : The Curious Lives of Human Cadavers*, (1st ed. Medical Humanities Collection Pah. New York: W.W. Norton, 2003), 41.
[5] Mary Roach, *Stiff : The Curious Lives of Human Cadavers*, (1st ed. Medical Humanities Collection Pah. New York: W.W. Norton, 2003), 40-44.
[6] Helen MacDonald, *Human Remains: Dissection and Its Histories*. (New Haven: Yale University Press, 2006), 12.
[7] Habbal, "The Science of Anatomy: A Historical Timeline."

men who unearthed fresh graves of common people and sold them to anatomists.[8] The dissected bodies would be macerated to clean them of soft tissue and the skeletal remains would be sold into anatomical collections for permanent reference or to personal curiosity collections.[9] The practice of grave robbing in Britain continued until the Anatomy Act of 1832,[10] which deemed only those executed by the state to be appropriate for dissection, and the Burial Act of 1857,[11] which prohibited the mutilation or robbing from fresh graves. However, the development anatomical study occurred within the global context of European exploration of the Americas. Colonialism introduced western Europeans, already holding established concepts of academic medical practices and destigmatized interaction with human remains, to indigenous and African people and belief systems. The collection of human remains with the purpose of defining medical anatomy began to shift to of defining racial differences through anatomy to justify colonialism.[12]

During the period between the settlement of America and the collections that survive to the twentieth century, anatomy with anthropology operated as one field of study. Multiple colonial practices influence the intersectional issues impacting ethical considerations within current collections: the new contact with Native Americans, the implementation of the Atlantic slave trade, the development of "scientific" white supremacy, and a European culture already consumed with exploring the body violently merging between the sixteenth to twentieth centuries. The early American practice of collecting was not confined to the dead, but also involved collecting and displaying the living. One of the largest, but not particularly unique,

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[8] Roach, *Stiff*, 41-44.
[9] MacDonald, Human Remains: Dissection and Its Histories, 98-99.
[10] "The Anatomy Act 1832," Body Snatchers, The National Archives, July 10, 2018), https://www.nationalarchives.gov.uk/education/resources/body-snatchers/source-four-the-anatomy-act-1832/.
[11] "Burial Act 1857. 1857 CHAPTER 81 20 and 21 Vict," Legislation.gov.uk (Statute Law Database, October 1, 1977), https://www.legislation.gov.uk/ukpga/Vict/20-21/81.
[12] Samuel J. Redman, Bone Rooms: From Scientific Racism to Human Prehistory in Museums, (Cambridge, Massachusetts: Harvard University Press, 2016,) 16-17.

examples of the collection of the living for display was the presentation of "Tupinambas taken by the French to Rouen to greet King Henri II in 1550."[13] Despite these practices, the historical consensus remains those early interactions with the Americas were primarily aimed at religious conversion and colonization rather than collection.[14] Although there was excavation of native burial sites such as those described in Thomas Jefferson's *Notes on the State of Virginia*, the remains were not collected after observation.[15] However, collection did continue in the medical field as evident by the Crimes Act of 1790 which was passed after the Doctor's Riots of 1788. This specified that only unclaimed bodies and criminals convicted of murder could be delivered to anatomy labs and restricted the robbing of graves of white citizens.[16] The 1854 Bone Bill reserved the remains of unclaimed citizens and those that could not afford a burial to medical school.[17] Some states would follow to implement anatomy acts, such as the Pennsylvania Anatomy Act of 1883 which limited the number of cadavers per medical student and restricted the reselling of remains, but most states did not.

The late Nineteenth Century into the early Twentieth Century in the United States was the most active period of human remains collecting and ended with remains being left to the care of museums.[18] Some of the most prominent surviving collections of human remains in the United States were collected during this time, such as the Samuel George Morton Collection, the

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[13] Peter C. Mancall, "'Collecting Americans': The Anglo-American Experience from Cabot to NAGPRA." In *Collecting Across Cultures: Material Exchanges in the Early Modern Atlantic World*, (University of Pennsylvania Press, 2011), 195. http://www.jstor.org/stable/j.ctt3fhbdc.16.
[14] Mancall, "Collecting Americans," 198, 206.
[15] Mancall, "Collecting Americans," 206.
[16] Aaron D. Tward and Hugh A. Patterson, "From Grave Robbing to Gifting: Cadaver Supply in the United States," *JAMA* 287, no. 9 (June 2002), https://doi.org/10.1001/jama.287.9.1183-jms0306-6-1.
[17] Aja Lans, "'Whatever Was Once Associated with Him, Continues to Bear His Stamp': Articulating and Dissecting George S. Huntington and His Anatomical Collection," in *Bioarchaeological Analyses and Bodies: New Ways of Knowing Anatomical and Archaeological Skeletal Collections* (Cham, Switzerland: Springer, 2018), 11-16. https://doi.org/10.1007/978-3-319-71114-0_2, 17.
[18] Redman, *Bone Rooms*, 16-68.

Warren Anatomical Museum, the George S. Huntington Anatomical Collection, the Robert J. Terry Anatomical Collection, and the Hamann-Todd Osteological Collection.[19] This period of rapid collection practices can be attributed to the professionalization of anthropology by the establishment of the Federal Bureau of American Ethnography (BEA) in 1879 to record and collect materials relating to Native Americans.[20] There is a perception of current collections that the anatomical and anthropological collections are distinctly separate,[21] but anatomy and anthropology were merged in the development of these early collections. Despite Morton writing in 1884, "No offense excites greater exasperation in the breast of the Indian than the violation of the graves of his people," the collection practices of this period ranged from grave robbing, battlefield pathology, the collection of unclaimed bodies (most commonly from poorhouses, hospitals, morgues, prisons, long-term care facilities, and psychiatric institutions),[22] and archeological excavation of contemporary and ancient Native American remains of the American West.

Whether collected by academic expeditions, bought from those who continued the resurrection men's ideology in the west, or bought from exhibitions such as 1893 World's Columbian Exhibition, the largest collections shared an early purpose: to attempt to prove the supremacy of the European race.[23] The most popular evolutionary theory of the nineteenth century was polygenism, the belief that geographic races evolved from multiple species and could be placed on a biological hierarchy. Morton's *Crania Americana* argued this theory using craniometry, a method of measuring the skull, a method of using statistical averages of skull

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[19] Redman, *Bone Rooms,* 16-68.
[20] Stephanie DuPont Golda, "A Look at the History of Forensic Anthropology: Tracing My Academic Genealogy," *Journal of Contemporary Anthropology* 1, no. 1 (2010): 36, https://doi.org/https://docs.lib.purdue.edu/jca/vol1/iss1/3.
[21] Redman, *Bone Rooms,* 6-8.
[22] Vanessa Campanacho, Francisca Alves Cardoso, and Douglas H. Ubelaker, "Documented Skeletal Collections and Their Importance in Forensic Anthropology in the United States," *Forensic Sciences* 1, no. 3 (2021): 263. https://doi.org/10.3390/forensicsci1030021.
[23] Redman, *Bone Rooms,* 50.

measurements to draw conclusions on population. The popularity of craniometry is seen collections often containing many crania dissociated from the full skeleton. Exceptions to this purpose include The Army Medical Museum, now the Smithsonian's Army Medical Museum and Library, which aimed to document battlefield pathology. During the civil war, the AMM would receive daily shipments of biological material, primarily of Native and Black Americans from battle. Another notable exception is the Hyrtl cranial collection, now displayed at the Mütter Museum since its acquisition by curator Thomas Hewson Bache in 1874. With the belief that "What science has wrought can be brought into order only through science,"[24] Hyrtl collected data in an attempted to counter Morton's conclusions displaying European cranial variation. Although collected from similarly disparaged circumstances as American collections, these skulls provided evidence contrary to the common consensus that the European cranium was statistically larger than other races, and that this could be correlated to greater intelligence.

Most laws affecting the sale, collection, and display of human remains were passed in the twentieth century. The American Antiquities Act of 1906 was intended to protect archeological and historic sites from looting, but because of vague language, was difficult to enforce and was reevaluated in the Archaeological Resources Protection Act of 1979.[25] Between these two acts, physical and forensic anthropology formed as distinct fields from archeology, anthropology, and broader medical human remains studies; notably, after large collections of human remains were formed.[26] This raises two complications affecting current collections: the development of ethical policy being split into separate historical lineages and the merger of human remains collections with material culture. Where collections established within a physical or forensic anthropological

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[24] "'As Only an Anatomist Can Feel': Josef Hyrtl and the Values of a Cranial Collection," Fugitive Leaves (The College of Physicians of Philadelphia, June 17, 2020), https://histmed.collegeofphysicians.org/as-only-an-anatomist-can-feel/.
[25] Francis P McManamon, "NPS Archeology Program: Antiquities Act of 1906," National Parks Service (U.S. Department of the Interior), ://www.nps.gov/archeology/tools/laws/antact.htm.
[26] Redman, *Bone Rooms*, 104-117.

purpose may contain human remains, related documentation, and medical instrumentation,[27] collections dedicated to archaeological or anthropological material culture may contain human remains but are not classified as distinctly human remains collections or contain specific policy referring to the care and treatment of human remains.[28] Collections specialized for medical purposes were reflective of contemporary populations and used to draw conclusions about modern life, whereas archeological collections consist of ancient remains and associated material culture within historical context.[29] Ancient remains have do not have the established personhood seen in more recent remains and operate under different ethical policy.[30] Additionally, medical collections established outside anthropological purposes are often left out of the history of anthropology,[31] despite informing later developments in physical, forensic, and archeological anthropology. For instance, Aleš Hrdlička, who established the American Journal of Physical Anthropology in 1918 after publishing his collecting guidebook in 1904, is considered the first curator of physical anthropology at the Smithsonian and was tasked to organize the institutions human remains including the collections of the American Medical Museum and the United States Museum, now the National Museum of Natural History.[32] His guide book for collecting human remains stressed dividing collections into "the whites and other civilized peoples," "those among primitive peoples," and "those of extinct peoples and early man."[33] Trading of human remains with figures at the time such as Frances Densmore, Alice Fletcher, and John, P

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[27] Redman, *Bone Rooms,* 209-210.
[28] Redman, *Bone Rooms,* 279-280.
[29] Redman, *Bone Rooms,* 354.
[30] Marianne Moen and Matthew J. Walsh, "Under the Skin: Norwegian Bog Skeletons and Perceptions of Personhood, Value, and Sacrifice," European Journal of Archaeology, 2022, pp. 1-21, https://doi.org/10.1017/eaa.2021.65.
[31] Redman, *Bone Rooms,* 128.
[32]Stephanie DuPont Golda, "A Look at the History of Forensic Anthropology: Tracing My Academic Genealogy," *Journal of Contemporary Anthropology* 1, no. 1 (2010), 38-39. https://doi.org/https://docs.lib.purdue.edu/jca/vol1/iss1/3.
[33] Redman, *Bone Rooms,* 67.

Harrington indicate, as Samuel J Redman states in *Bone Rooms* that, "The shared function of teaching scientists and broader public, while preserving specimens for future generations, was compelling enough to drive the construction of bone empires through the uncertainty of their exact utility for studies on race or human history."[34] In simpler words, human remains were first collected and then categorized by purpose, making their segregation into archeological and medical, and diverging ethical considerations, a modern implementation.[35]

During the mid-twentieth century, forensic anthropology began to emerge as a distinct profession. In addition to his role as curator, Hrdlička was consulted on 37 FBI cases between 1937 and 1943 though he is not generally considered to have been a forensic anthropologist. His successor, Thomas Dale Stewart, would later be consulted on 167 cases between 1946 and 1969.[36] The professionalization of forensic anthropology has been dated at the earliest to Todd's study of the pubis in the 1920s and later to Stewart's "Essentials of Forensic Anthropology" in the 1970s.[37] The collection of human remains slowed during this period, but did not stop. For example, the W. Montague Cobb Human Skeletal Collection was formed between 1932 and 1969 at Howard University. The decline in acquisition can be attributed to a decline in unclaimed bodies due to welfare legislation in the 1930s[38] and laws such as the Uniform Anatomy Gift Act (UAGA) of 1968 that were passed to restrict the acquisition of human remains outside of a willed donor, next of kin, or other interaction with the legal system.[39] The American Board of Forensic Anthropology was formed in 1978.[40] The William M. Bass Donated Skeletal Collection was formed in 1981 from Bass' implementation of the University of Tennessee

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[34] Redman, *Bone Rooms* 114-115.
[35] Redman, *Bone Rooms*, 124-125.
[36] Douglas H. Ubelaker, "A History of Forensic Anthropology," *American Journal of Physical Anthropology* 165, no. 4 (2018): 915-923. https://doi.org/10.1002/ajpa.23306.
[37] Ubelaker, "A History of Forensic Anthropology," 915-923.
[38] Campanacho, "Documented Skeletal Collections," 231.
[39] h"Uniform Anatomical Gift Act," Legal Information Institute, Cornell Law School, https://www.law.cornell.edu/wex/uniform_anatomical_gift_act.
[40] Ubelaker, "A History of Forensic Anthropology," 915-923.

Forensic Anthropology Center's human decomposition facility the prior year.[41] Donated remains are often the result of willed consent, but, in its early years the facility's collections was largely composed of unclaimed individuals from medical examiners and state donations. The 1990's and 2000's saw a rise in self-donation at which time the University of Tennessee changed its policy to accept only willed or next of kin donations. Six other facilities across the US followed the protocol of the William Bass Donated Skeletal Collection.[42]

Controversy and the Expansion of NAGPRA

The most influential law to affect the collection of human remains was the 1990 implementation of the Federal NAGPRA, the Native American Grave Protection and Repatriation Act. The formation and passing of NAGPRA is reflected in an anonymous interviewee's comments conducted as a part of this study that the mode of thought in museums and special collections was to act upon what they could do within the legal framework without concise ethical consideration (paraphrased). Legal precedent such as the Burial Act defined a grave by its marked tomb stone and documentation, something missing from the cultural burial practices of Native Americans. For decades prior, Native activists such as Maria Pearson pushed for federal support to return sacred artifacts and human remains to affiliated tribes, but were met with institutional resistance.[43] In 1988, the Select Committee on Indian Affairs recorded testimony of the American Association of Museums which pleaded to "delay any further action on this bill or any other repatriation measure, in order to allow the museum community an opportunity to enter into a dialogue with the Indian community on repatriation issues."[44] Conflict

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[41] "WM Bass Donated Skeletal Collection," Forensic Anthropology Center, University of Tennessee, https://fac.utk.edu/wm-bass-donated-skeletal-collection/.
[42] Campanacho, "Documented Skeletal Collections," 232.
[43] Redman, *Bone Rooms,* 279-280.
[44] Select Committee on Indian Affairs, Report, Providing for the protection of Native American graves and the repatriation of Native American remains and cultural patrimony: Report (to accompany s. 1980) (including cost estimate of the Congressional Budget Office) §. 842 (1990), 1.

reached a breaking point when the March 1989 issue of *National Geographic* published photos of Slack Farm in Kentucky in which 800-1,200 remains of prehistoric individuals from burial mounds were excavated by an amateur for a $10,000 hunters' fee to be resold. Because these graves were unmarked and on private property, the looters could only be charged with a misdemeanor, but the *National Geographic* article gained broader public support for the idea of reburial and pushed legislatures and museum officials in the direction of repatriation.

In addition to criminalizing "the sale, purchase, use for profit, or transportation for sale or profit of Native American human remains without the right of possession to those Remains,"[45] NAGPRA mandates processes of repatriation to "culturally affiliated" tribes through repatriation requests within collections receiving federal funds. Although one of the largest steps taken towards ethical collections, this law has been criticized for its rigid definitions and long bureaucratic policies. The definition of "culturally affiliated" limits repatriation requests to federally recognized tribes who can prove their ancestral connection to the artifacts or remains. Remains where the associated tribe is not federally recognized or (in examples such as the Kennewick Man) are unable to satisfactorily prove affiliation upon request are left to the discretion of museums. Claims of unsatisfactory proof are often overturned upon later reexamination, such as UC Berkeley's Phoebe A. Hearst Museum of Anthropology's return of Wiyot remains in 2021 which had been originally rejected for repatriation in 2016.[46] It is also notable to stress that NAGRA is only applicable to Native American remains and those of African American or others of marginalized descent have no legal claim over the remains in collections.

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[45] Select Committee on Indian Affairs, 7.
[46] Lily Button, "UC Berkeley Hearst Museum Repatriates 20 Remains to Wiyot Tribe," The Daily Californian (The Independent Berkeley Student Publishing Co., January 31, 2022), https://www.dailycal.org/2022/01/30/uc-berkeley-hearst-museum-repatriates-20-remains-to-wiyot-tribe/.

The call for an extension of NAGRPA provision to African American remains was presented by Justin Dunnavant's *African Americans and NAGPRA: The Call for an African American Graves Protection and Repatriation Act* at the Society of Historical Archeology Conference in 2016.[47] Although the ethics of holding African American remains had been questioned before, this conference proposed AAGPRA, an African American Graves Protection Act. In his talk, he argues that the first step in considering the ethical dilemma of these collections and modern exhibitions is to develop a nationwide database of Black burial grounds and Black remains held in collections,[48] but has not been able to pass through the legislative system. The African-American Burial Grounds Study Act was passed unanimously in the Senate in 2019, but the House adjourned before viewing the bill.[49] It was reintroduced in 2020 as the African-American Burial Grounds Network Act, but was held at the House desk and did not move forward in legislation.[50] During the summer of 2020 following the Black Lives Matter protests of the death of Ahmaud Arbery, Breonna Taylor, and George Floyd, the University of Pennsylvania publicly announced that they would be moving parts of the Morton Collection off display and that they would be working towards "repatriation or reburial of the crania of enslaved individuals."[51,52] This was in response the undergraduate student led research group, the

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[47] Justin Dunnavant,"African Americans and NAGPRA: The Call for an African American Graves Protection and Repatriation Act," presented at *the Society for Historical Archaeology*, Washington, D.C. 2016. https://core.tdar.org/document/434603/african-americans-and-nagpra-the-call-for-an-african-american-graves-protection-and-repatriation-act.
[48] Justin Dunnavant,"African Americans and NAGPRA."
[49] Justin Dunnavant, Delande Justinvil, and Chip Colwell, "Craft an African American Graves Protection and Repatriation Act," *Nature* 593, no. 7859 (2021): pp. 337-340, https://doi.org/10.1038/d41586-021-01320-4.
[50] "S.2827 - 116th Congress (2019-2020): African American ...," Congress.gov (Library of Congress), https://www.congress.gov/bill/116th-congress/senate-bill/2827.
[51] Johnny Diaz, "Penn Museum to Relocate Skull Collection of Enslaved People," The New York Times (The New York Times, July 27, 2020), https://www.nytimes.com/2020/07/27/us/Penn-museum-slavery-skulls-Morton-cranial.html.
[52] Komal Patel, "Penn Museum to Remove Morton Cranial Collection from Public View after Student Opposition," The Daily Pennsylvanian (The Daily Pennsylvanian, July 14, 2020), https://www.thedp.com/article/2020/07/penn-museum-morton-cranial-collection-black-lives-matter.

Penn & Slavery Project, findings in 2019 that Penn's collections held 53 crania belonging to those of enslaved people from Havana and other revelations such as an early professor who "received an abdominal cavity and fetuses of an enslaved woman from Virginia and put it in his specimen collection at Penn."[53] After reaffirming its intention to repatriate the remains of Black Philadelphians within the Morton collection in early 2021, Philadelphia Inquirer's Abdul-Aliy Muhammad reported that The Penn Museum was not making efforts to return remains of the 1985 MOVE bombing.

An anonymous interview conducted as a part of this study emphasized their concern over the lack of historical understanding by collections professionals in reference to the MOVE bombing when addressing the controversy, such as the city's history of police violence and targeted policies under Mayor Rizzo and Mayor Goode (paraphrased). The MOVE bombing, also referred to by Philadelphians as "May 13, 1985," was the climax of over a decade long conflict between the MOVE family and the Philadelphia police. Six years prior, nine members of MOVE were sentenced to thirty to one hundred years in prison for the death of an officer during a raid and the remaining members relocated to the 6200 block of Osage Avenue in the Cobbs Creek area. At 5:30 AM on May 13, 1985, police announced they would be serving a warrant for terrorist threats and the illegal possession of explosives. MOVE members shot at police attempting to enter the house in which they responded by sending 10,000 rounds of ammunition and various explosives into the front of the house without success. After over twelve hours of attempting to evict MOVE members, the police dropped a modified explosive by helicopter on the MOVE residence and hit a gasoline tank. The ensuing blaze was allowed to burn until 6:32 PM and was not contained for an additional three hours. The bombing resulted in eleven MOVE members deaths, five of which were children, over 100 home damaged, and 250 Philadelphians

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[53] Manlu Liu, "Penn & Slavery Project Finds Profs Collected Body Parts of Enslaved People in the 1800s," The Daily Pennsylvanian (The Daily Pennsylvanian, July 23, 2019), https://www.thedp.com/article/2019/04/penn-slavery-project-findings-research-medicine.

homeless.[54] Medical examiners arrived the next day after a crane was beginning to remove debris which resulted in dismemberment and dissociation of those that passed in the fire to be mixed with animal bones and complicated identifying remains. It was additionally revealed that recovered bodies were not kept at environmental standards, causing decomposition that impeded forensic analysis.[55] A federal grand jury found the city liable for the fire eleven years later,[56] but support for Mayor Goode did not wane and, with most of its members imprisoned or dead, MOVE fell into obscurity outside of those that survived or witnessed the event and clouded inquiries into the treatment and location of remains collected from the scene.

Abdul-Aliy Muhammad's article reported that Professor Alan Mann, then at the University of Pennsylvania specializing in Physical Anthropology and Paleoanthropology was hired by the medical examiner's office to determine whether specific remains belonged to fourteen-year-old Tree (Katrice) Africa or other children, such as twelve-year-old Delisha Africa, who passed in the fire. The remains had been identified by forensic pathologist (and Delaware Medical Examiner) Ali Hameli as remains of a child and most likely that of Tree or Delisha, whose mother was a part of the MOVE Nine imprisoned in 1978,[57] but the medical examiner sent the remains to Alan Mann under the belief these were adult remains.[58] The MOVE Commission report stated that remains were released to Hankins Funeral Home under Nathaniel Galloway, Tree's father, and Gerald Ford Africa, power of attorney, to be buried in September of

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[54] Charles Abraham, "MOVE: Philadelphia's Forgotten Bombing," *MAD-RUSH Undergraduate Research Conference, 1,* 2019. https://commons.lib.jmu.edu/madrush/2019/move/1
[55] *The Odyssey of the MOVE Remains: Report of the Independent Investigation Into the Demonstrative Display of MOVE Remains at the Penn Museum and Princeton University* (Philadelphia, Pa: Tucker Law Group, 2021).
[56] "Library Guides: Black Lives Matter: Move and the Bombing of Philadelphia," Penn State University Libraries (The Pennsylvania State University, April 11, 2021), https://guides.libraries.psu.edu/c.php?g=1046409&p=7592859.
[57] *The Odyssey of the MOVE Remains*, 100.
[58] Maya Kassutto, "Remains of Children Killed in Move Bombing Sat in a Box at Penn Museum for Decades," Billy Penn (Billy Penn, February 15, 2022), https://billypenn.com/2021/04/21/move-bombing-penn-museum-bones-remains-princeton-africa/.

1986.[59] It is unclear why these remains were never returned to a next of kin, but Penn statements indicate that the remains were taken with Mann when he transferred to Princeton University. The remains returned to the University of Pennsylvania from 2016 to 2019 during a temporary investigation, and Dr. Janet Monge reported they had been "returned to the care and stewardship of Dr. Mann at Princeton University"[60] despite his retirement in 2015. Princeton stated that they were unaware of the remains' location and denied that they were in their possession.[61] It was later revealed that the remains were housed in Monge's filing cabinet in her office at Penn where she had made efforts to speak with MOVE members to identify and return the remains.[62] In addition to Mann holding the remains, Muhammad criticized their use in a 2019 Coursera video series "REAL BONES: Adventures in Forensic Anthropology" in which a femur and pelvic bone were displayed by Janet Monge, who had worked with Mann after the 1985 bombing, to "explore[s] "restoring personhood" in forensic anthropology."[63] The video contained Monge and an undergraduate student, discussing the age of the remains, '"14 or 16, right?" says the undergraduate. "More, you know, in the 18-plus kind of a category," Monge suggest[ed]."[64]

It is important to stress that there was no conspiracy in keeping the MOVE remains in Alan Mann's possession, but more so that there was no regulatory body, ethical code, or professional precedent deeming these actions unethical. Monge had been cited by previous students to be "engaging in post-colonial critiques of anthropology and attendant museum policies to interrogate the role the discipline has played in the continuing objectification and exploitation of brown and Black bodies."[65] An anonymous interview as a part of this study stated

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[59] *The Odyssey of the MOVE Remains*,
[60] Kassutto, "Remains of Children Killed in Move Bombing."
[61] Kassutto, "Remains of Children Killed in Move Bombing."
[62] *The Odyssey of the MOVE Remains*, 57.
[63]Abdul-Aliy Muhammad, "Penn Museum Owes Reparations for Previously Holding Remains of a Move Bombing Victim: Opinion," The Philadelphia Inquirer (The Philadelphia Inquirer, May 7, 2021), https://www.inquirer.com/opinion/commentary/penn-museum-reparations-repatriation-move-bombing-20210421.html#loaded.
[64] Kassutto, "Remains of Children Killed in Move Bombing."
[65] *The Odyssey of the MOVE Remains*, Exhibit 25, 2.

that, from a curator's perspective, the remains could have passed through tens of hands that did nothing and expressed their distress in the judgment of people they had come to trust (paraphrased). A second interview stated,

> "In the last four or six years, things have really changed, and people are starting to pay more attention to ethics, but I think it's still not appreciated in the larger community of biological anthropology or forensic anthropology. Which we see, right, like I don't know, I'm sure you're familiar with it, but that whole MOVE remains scandal. I think a big part of that was people acting unethically and, they may have had good intentions, but it doesn't matter if you have good intentions if you're doing a bad job cause you just don't know any better."

Muhammad's article reported previous employees describing the remains as "an open secret." Princeton Anthropology Department Chair Carolyn Rouse stated that Mann's lab was not diligently overseen by the department, "nobody knows what's in the lab but them [Mann and Monge]," and that there was no reason to question what was being held, "I'm very aware of the profoundness of the MOVE thing. But nobody has been asking about the MOVE remains… It's just that this is now just becoming a thing."[66] This is an example of what can be referred to as "hidden collections" of human remains across universities. These amount to teaching collections, remains acquired but never accessioned, and remains held in the limbo of field professionals' shelves as the MOVE remains were. An independent examination by Tucker Law Group released a 217-page report detailing the whistleblower interviews, originally anonymous in fear of losing their position and ensuing controversy. They have since come forward as Paul Mitchell, a researcher under Monge at the University of Pennsylvania. Although the public attention to human remains ethics may produce a net good for institutions, even blowing the whistle is debated to have been motivated by purely ethical concerns as Mitchell had an argument witnessed by colleges resulting in Janet Monge restricting his access to the Morton Collection two months prior the article.[67] In the wake of the controversy, Monge returned the remains to

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[66] Kassutto, "Remains of Children Killed in Move Bombing."
[67] *The Odyssey of the MOVE Remains*, 54-55

Mann at his home, from which they were picked up by Terry Funeral Home, and returned to MOVE members on July 2, 2021.[68]

The University of Pennsylvania and the Penn Museum responded by hiring Dr. Tia Jackson-Truitt as the first Chief Diversity Officer[69] and conducting a review of the museum's holding and policies regarding human remains.[70] The controversy was followed by multiple field wide condemnations and calls for an expansion of ethical and repatriation policy regarding the remains of Black Americans.[71] During the period before Tucker Law Group's report was released, the public and allied professionals questioned how the museum came to house the remains, the purpose of contemporary remains in the collection, the lack of documentation of the movement of the remains, the choice to virtually display the remains, and why they were not returned to MOVE members. After the report, questions remain as to how provisions and ethical policy allowed for the unmonitored treatment of the remains.

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[68] *The Odyssey of the MOVE Remains*, 63

[69] Jill DiSanto, "National DEIA Expert Dr. Tia Jackson-Truitt Appointed as Penn Museum's Inaugural Chief Diversity Officer," Press Releases (Penn Museums), accessed April 28, 2022, https://www.penn.museum/documents/pressroom/Tia-Jackson-Truitt-CDO_PressRelease.pdf.

[70] Jill DiSanto, "Report on the Handling of Human Remains from the 1985 Move Tragedy," Penn Today (University of Pennsylvania, August 25, 2021), https://penntoday.upenn.edu/news/report-handling-human-remains-1985-move-tragedy#:~:text=Authored%20by%20The%20Tucker%20Law,course%20hosted%20by%20Princeton%20University.

[71] "Collective Statement Concerning the Possession and Unethical Use of Remains," Association of Black Anthropologists (Association of Black Anthropologists, April 28, 2021), https://aba.americananthro.org/collective-statement-concerning-the-possession-and-unethical-use-of-remains/.

Chapter 2

THE SURVEY

The survey was constructed to address current collection policy regarding human remains and to discern changes being made in response to the Penn controversy. To investigate if there are systematic, field-wide policies in place, I decided to discern curators and collections managers in museums that house human remains. The first questions define the collection's identity, Archeological, Anatomical, or Forensic, to establish the purpose of the collections and the historical context in which it was created. The next three questions address the time period at which their human remains were collected, 50 to 150, 20 to 50, or within 20 years ago. They were then asked to rank the time periods of acquisition from none of the collection to the majority of the collection. Based on these time periods, participants were asked to check a list of collections policies and practices related to the ethical concerns raised by discussions of the Penn controversy. After addressing current policy, participants were asked to select if they are currently reexamining or within the past two year have reexamined their human remains policy. Lastly, the participants were asked if they would like to provide any additional comments and if they are willing to be contacted for an interview. Although this study was determined to be exempt by the IRB, a disclosure statement was included at the top of the survey to address how the survey will be used and to inform participants of any risk in participating in the survey. To encourage participation, the survey's responses remained anonymous to defer any perceived social or professional damage to their reputation based on the controversial nature of the subject. The survey was sent by email to the collections manager, curator, or by research request form to fifteen institutions containing a collection of human remains ranging in collection size and purpose. A copy of the survey, hosted on Google Forms, can be found in the Appendix.

Results and restrictions

Although I anticipated some hesitancy from institutions to disclose their policy because of the sensitive nature of the topic given the recent controversy, the poor rate of responses was disappointing. Six out of the fifteen contacted institutions participated in the survey, while others either did not respond or declined to participate. Of the respondents, those identified as anatomical or forensic or a combination of archeological, anatomical, and forensic, but none identified as solely archeological. This limits the survey's ability to compare the purpose of the collections and does not provide enough responses to attempt meaningful policy comparison. This restricted statistical analysis to the results of the survey.

Figure 1 Responses to "The majority of the human remains collection can be described as…"

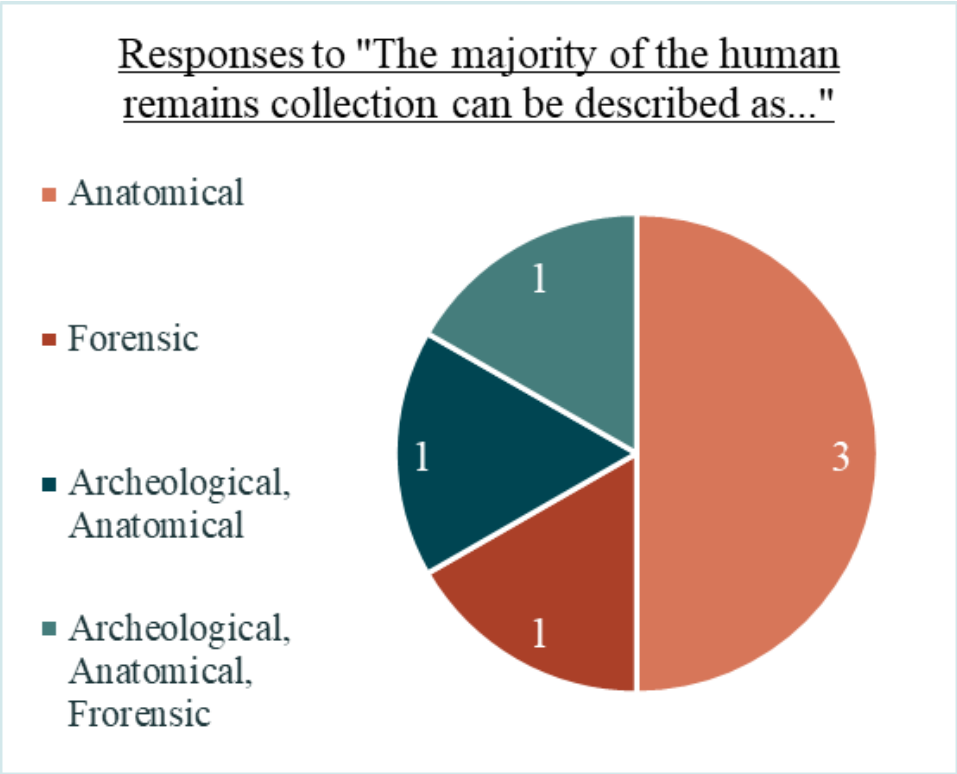


Figure 2 Responses to “There is a current or recent (within the past two years) effort to reexamine or expand human remains policy within the institution.”

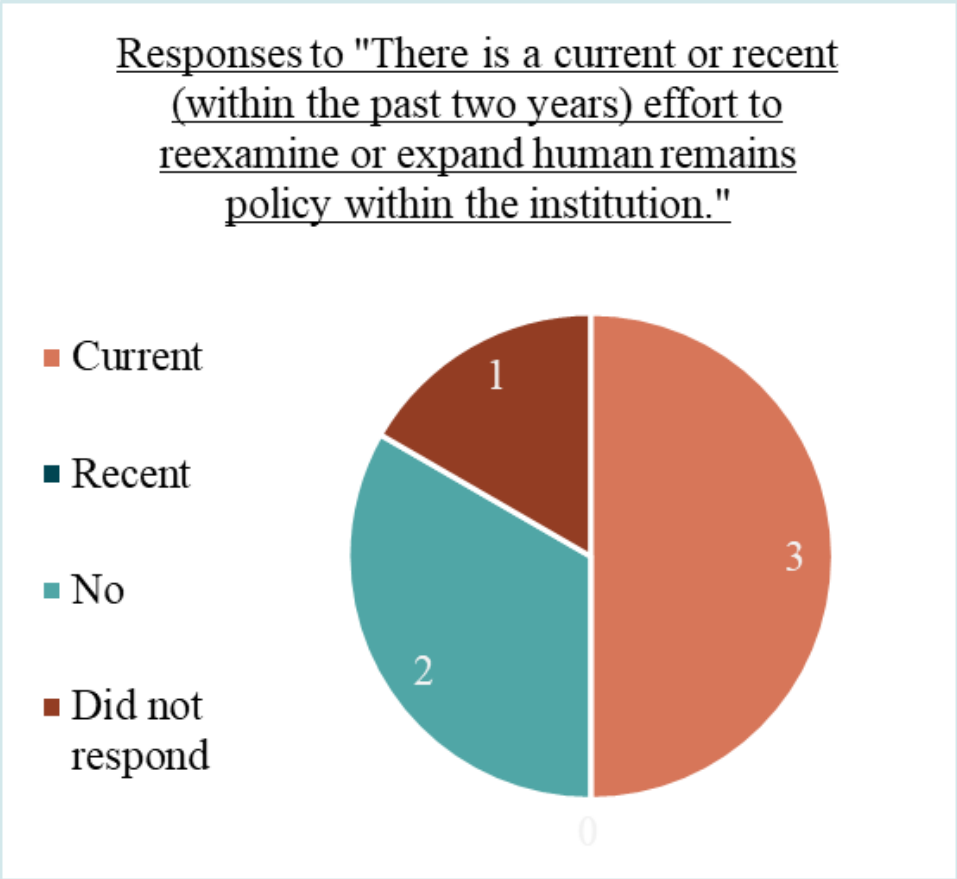
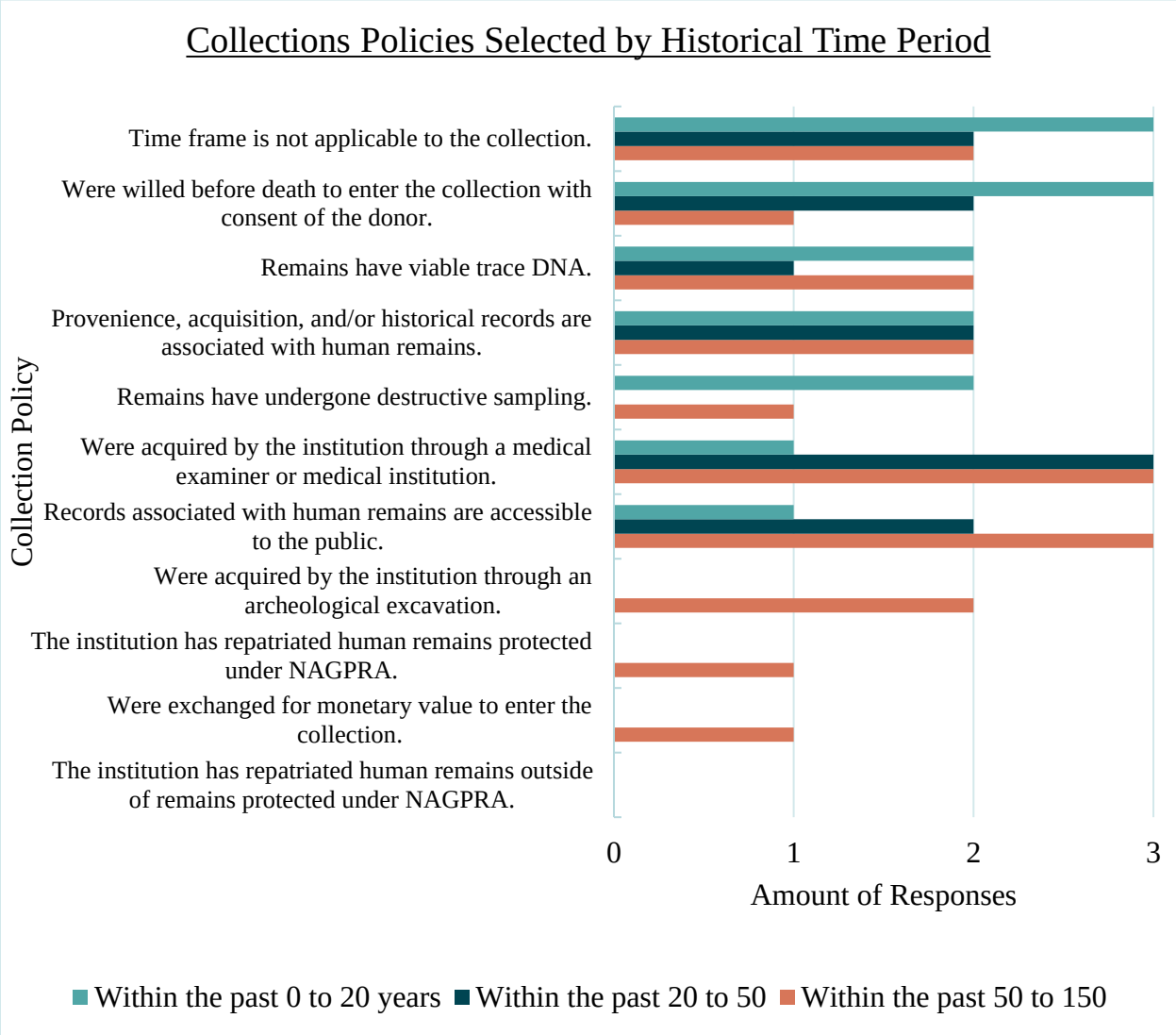


Figure 3 Collections Policies Selected by Historical Time Period



Five out of the six responses indicated their interest in an interview. This allowed me to shift the study from a survey to a qualitative analysis of policy and provide anecdotal evidence of ethical climate within the professional field. Two of the five respondents chose to remain anonymous. The interviews were standardized to the following groups of questions, but I also encouraged a conversational tone and asked related follow-up questions during each interview.

- How did your background lead to a career in human remains collections? Can you describe the ethics and policy education, or training involved in your background? How was your experience transitioning the education or training to day-to-day interactions with the human remains collection? How did this education or training evolve over your career?

- If selected on the survey, can you describe the processes of updating or reexamining human remains policy within the institution? What prompted this reexamination? In what ways and when will this be implemented? Or how has the updated human remains policy affected your experience in this position and the field? If not selected, can you describe how the institution's policy was originally developed? Are there any areas of policy you wish to gather more attention? What are the ethical issues compared to other remains collections you may have worked with? Mammals, fossils?

- Is there open or frequent communication between departments handling human remains? Do you see interdepartmental policy differences regarding the handling or viewing of human remains collections? Is there collaboration regarding outreach? How do you personally attempt to mediate when discussing ethical policy within human remains collections between field professionals and the public?

Chapter 3

ETHICS

Introduction and Ethical Philosophy

Following the American Antiquities Act of 1906, museums began to form policies based on ethical concerns as a response to collections moving from university settings to the growing field of professional museums.[72] Early codes of ethics, such as the American Alliance of Museums (originally the American Association of Museums or AAM) was formed the same year as the American Antiquities Act to aid in developing museum standards and practices. In 1924, AAM published its first Code of Ethics to "codify behavior and refine principles in every aspect of museum management and especially acquisitions,"[73] The original document is dedicated to defining appropriate relationships between museum workers and trustees rather than defining treatment of the collection, but it did encourage the development of collections ethics. During his time at the Boston Museum of Art in 1940, W.G. Constable wrote in a commentary on the AAM Code of Ethics for Museum Workers that the primary ethical problems within museum collections was the

> "Acquisition of objects
> Their conservation and repair
> Research into their character and history
> Their exhibition to the public
> Their explanation to the public."[74]

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[72] Redman, *Bone Rooms,* 74-75, 263-267.
[73] Kacey M. Page, "The Significance of Human Remains in Museum Collections: Implications for Collections Management," (State University College at Buffalo, 2011), 48, https://digitalcommons.buffalostate.edu/history_theses/1
[74] "W.G. Constable Papers: Lectures," n.d., 213, https://edan.si.edu/slideshow/viewer/?eadrefid=AAA.conswmgp_ref324.

Major developments in collection ethics did not gather attention until the 1970s after the influence of post-World War II writings, such as the Nuremberg Code and Belmont Report's defining of research consent and the formation of the United Nations Educational, Scientific, and Cultural Organization (UNESCO),[75] and the civil rights movement bringing attention to structural systems of racism.[76] Philosopher Karen J. Warren attributes the perception of cultural heritage as property with the protection of rights to this co-development of museum policy with civil rights movements.[77]

This perception of culture as physical property is complicated within collections of human remains as perception moved from defining human remains as objects once removed from their ritual context[78] to sustaining personhood. Defining human remains as something philosophically different than surrounding museum objects was not pushed to the forefront of collections until pressure from Native American civil rights activists and the reburial movement of the 1980s. This movement was framed around the religious belief in an ancestral spirit continuing in the body, which in turn caused personhood in human remains to be dependent on their religious context.[79] The Vermillion Accord was the first code of ethics developed through collaboration of Indigenous people and archeologists in direct response to the reburial movement. Published from the World Archaeological Congress conference in 1989 and with

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[75] T. A. Faunce, "Will International Human Rights Subsume Medical Ethics? Intersections in the UNESCO Universal Bioethics Declaration," *Journal of Medical Ethics* 31, no. 3 (2005): 173–78. http://www.jstor.org/stable/27719363.
[76] Claire Wintle, "Decolonizing the Smithsonian: Museums as Microcosms of Political Encounter," The American Historical Review 121, no. 5 (2016): 1518–1519. https://www.jstor.org/stable/26576341.
[77] Clemency Chase Coggins and Phyllis Mauch Messenger, "The Ethics of Collecting Cultural Property: Whose Culture? Whose Property?," *Journal of Field Archaeology* 18, no. 3 (1991): p. 389, https://doi.org/10.2307/529943.
[78] Johannes Fabian, "How Others Die—Reflections On The Anthropology Of Death," *Social Research* 39, no. 3 (1972): 543–67. http://www.jstor.org/stable/40970109.
[79] Joel Zimbelman, "Moral Discourse in the Debate over the Return of Native American Burial Remains." The Annual of the Society of Christian Ethics 11 (1991): 67-69. http://www.jstor.org/stable/23559577.

involvement of Australian Aboriginal activists, the Vermillion Accord's six tenets focus on emphasizing "respect" for human remains and maintaining collaboration with relative communities.[80] Emphasizing religious traditions was helpful in achieving the goals of activists and in generating societal push for change, but it placed the burden of defining personhood on proving 'legitimate' traditions as a claim to human remains.[81]

The concept of personhood from an ethical perspective separate from religion was also being developed by social anthropologists and philosophers during the second half of the twentieth century, although this would not be introduced to museum ethics until the twentieth first century. Michel Foucault introduced the idea of "biopower" in the late 1970s within *The Birth of Biopolitics*, writing, "power in this instance was essentially a right of seizure: of things, time, bodies, and ultimately life itself; it culminated in the privilege to seize hold of life in order to suppress it."[82] He theorized that industrialization of the eighteenth century shifted institutional power derived by ownership of land to power deriving from ownership over the body as a biomedical, economic, and political tool, thereby, reducing the value of personhood to the value of productivity.[83] When viewed through the institution of museums, the beginning and peak of human remains collections in the United States aligns with the development of biopower and can be read as continuing the ownership of the body after death as a factor of social productivity.

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[80] "The Vermillion Accord on Human Remains," Code of Ethics, World Archaeological Congress, https://worldarch.org/code-of-ethics/.
[81] Bienkowski, Piotr, and Elizabeth Burns Coleman. "Contesting 'Claims' on Human Remains: Which Traditions Are Treated as Legitimate and Why?" *Global Ancestors: Understanding the Shared Humanity of Our Ancestors*, edited by Margaret Clegg et al., Oxbow Books, 2013, pp. 81–102, https://doi.org/10.2307/j.ctvh1dj79.11.
[82] Vernon W. Cisney and Nicolae Morar, *Biopower: Foucault and Beyond*. (University of Chicago Press, 2015,) 2, https://cupola.gettysburg.edu/books/91/.
[83] Cisney, *Biopower: Foucault and Beyond*, 6.

Following Foucault's philosophy, the act of viewing and displaying the body separate from personhood serves to uphold structures of unequal power.[84]

Social anthropologists around this period expanded this belief in the works of Debbora Battaglia,[85] Marilyn Strathern,[86] and Nurit Bird-David[87] by attempting to merge western individualistic views of the body with sociocentric and relational views of the dead as continuing members of society.[88] Often misconstrued with the religious conception of maintaining the soul after death or maintaining an spiritual ancestral connection, social anthropologists argued that maintaining personhood of human remains is defined by their continuing relation to living culture and the re-embodiment of past culture,[89] blurring the philosophical separation of the living and dead body. In other words, by relating the dead to their personal history, actions, and greater impact on history, it becomes difficult to separate a sympathetic notion of life from the post-mortem body. The twentieth-first century expanded this idea to those from cultures that may not have recorded histories through activism such as the Death Positivity Movement which emphasizes personal choice to decisions made after death.[90] Especially in circumstances of

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[84] Sharon R. Kaufman and Lynn M. Morgan, "The Anthropology of the Beginnings and Ends of Life," *Annual Review of Anthropology* 34 (2005): 328. http://www.jstor.org/stable/25064888.

[85] Debbora Battaglia, *On the Bones of the Serpent: Person, Memory, and Mortality in Sabarl Island Society* (Chicago, IL: University of Chicago Press, 1990).

[86] Marilyn Strathern, *Property, Substance, and Effect: Anthropological Essays on Persons and Things* (S.l.: HAU, 2022).

[87] Nurit Bird-David, *"Animism" Revisited: Personhood, Environment, and Relational Epistemology,* (Current Anthropology 1999 40:S1, S67-S91.)

[88] Howard Williams and Melanie Giles, *Archaeologists and the Dead: Mortuary Archaeology in Contemporary Society* (Oxford, United Kingdom: Oxford University Press, 2016), 41.

[89] Sarah Otten, "Pieces of Personhood: Fragmentation of Human Remains at Upland Sites in the American Bottom," *Illinois State Archaeological Survey*, 2009, https://doi.org/https://experts.illinois.edu/en/publications/pieces-of-personhood-fragmentation-of-human-remains-at-upland-sit.

[90] "History of the Death Positive Movement," The Order of the Good Death (The Order of the Good Death), https://www.orderofthegooddeath.com/history-of-death-positive-movement/.

collections with traumatic histories, many anthropologists and collection professionals begin to question the efficacy of maintaining human remains collections.[91]

Still, a view of human remains as objects has persisted within human remains collections and related research. Ulla Rajala's study in 2016 interviewing professionals working with human remains across the globe found that 80% respondents considered the body an object of neutral scientific inquiry.[92] Rajala argues that this is representative of a combination of professionalization encouraging detachment and neutralization with ingrained western cultural fears of interacting with the dead.[93] The concept and implementation of personhood is foundational in the current re-examination of ethical policy as it directly informs the handling of human remains as more sensitive than associated funerary objects, but is also regarded as very new within field studies of ethical human remains policy. In the case of the MOVE remains, the report found the Mann did not violate any specific prevailing professional, ethical or legal standards by the retention of the remains from 1986 to 2021."[94] This can be read as a reflection of the lack of specific law and ethical codes governing the collection of human remains. An anonymous curator stated,

> "I assumed that I was gonna get here and someone was gonna hand me a piece of paper of like, here are all the other laws regarding remains collections because they have to be governed heavily and they really just, and I keep thinking that I'm gonna like find, like all the sudden someone's going to point something out that changes, like oh have you been paying attention to this law and like (shaking head) there just does not seem, for historic remains, there just do not seem, outside of NAGPRA, there do not seem to be a lot of laws. There are norms, there are ethics but, like, who is, and obviously there are a lot of laws if you're dealing with someone who just died, but these historic collections seem to be in this very odd gray area… I think more certainty would be appreciated."

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[91] Interview cited the death positivity movement as bringing more attention to contemporary collections.
[92] Williams, *Archaeologists and the Dead: Mortuary Archaeology in Contemporary Society*, 75-76.
[93] Williams, *Archaeologists and the Dead: Mortuary Archaeology in Contemporary Society*, 77-79
[94] *The Odyssey of the MOVE Remains*, 57.

Most of the respondents to this study could not provide a written policy on human remains in their collection or could only provide a written collections policy prescribed to all acquisitions. All six interviewees stated that they did not receive any formal ethical training regarding the collection and treatment of human remains outside of general museum ethics, NAGPRA training, or fragments of undergraduate and graduate courses. The overwhelming consensus was that ethics regarding human remains collections was something they had to seek out of their own volition. Additionally, respondents indicated that there has been a rapid progression in the past few years, some even citing the MOVE controversy as a primary factor in the reexamination of ethics. Lowell Flanders, collections care manager at the Mütter Museum, stated,

> "We convened a new committee on ethics after the Penn thing, which started out being, seeming kind of onerous, but then we actually got some Fellows who are interested in, were knowledgeable, and were listening to us."

Dr. Nicholas Passalacqua, professor at Western Carolina University and interim director of the Forensic Osteology Research Station, stated,

> "It was never something I was taught about to pay attention to in any of my classes, and overtime I saw it as a more and more important thing because I felt like people were doing things that were unethical but maybe I didn't have a good vocabulary for it,"

And an anonymous curator stated,

> "Ethics surrounding human remains in the very beginning was mostly me figuring things out by talking to people or how I felt…What's changed is now the country is talking about human remains and ethics."

This is also reflective of the previous hesitancy within the field to discuss human remains as people and the difficulty in acknowledging previous harm. The anonymous curator stated,

> "Because human remains are people, you start to care about them in a different way. And I like that the current environment is allowing us to talk about it like that. I can talk about these ideas of harm, and I can let that protectiveness I feel, and maybe before questioned in some sense, and maybe let that guide me a little bit more… Maybe longer, like five or six years ago, I would've been like I don't know if I should get emotional with this stuff and I don't know if I feel that way anymore. I feel that maybe it's to the benefit of the collection"

To reflect these sentiments, the rest of this chapter's sections begin by addressing ethical policy by case study of the MOVE remains, followed by consensus generated from the survey and interviews.

Policy Discussion

Acquisition

The remains of MOVE bombing victims left in the care of Alan Mann by medical examiner and later housed in the University of Pennsylvania Museum.[95] Because the remains were not formally accessioned, their movement between museums and their treatment within the Penn Museum was correspondingly undocumented. As stated before, this is an example of 'hidden collections' which consist of undocumented remains residing in universities and teaching collections. Given their undocumented nature, the remains in 'hidden collections' are nearly impossible to track and separates the collection from AAM's definition of 'museum,' resulting in less regulation of the collection. Still, uncatalogued collections are common within museum spaces. Flanders stated,

> "We have 35,000 objects but we, like, any day if you're just walking around you'll find something that's never been accessioned and no one knew about, or has be assessed but not cataloged… because most of what's out of the scope of the collection here came from fellows of the college, like doctors, who just acquired it over time… It's certainly escalated in the past few years because of Penn's mistakes. One push to this new database is transparency, like we want everything out there so that it doesn't look like we're trying to hide anything, since we're not, we just don't know what we have."

This is compounded by the prevalence of the private trade of human remains for collectors and casual trade between professionals. A 1991 review recorded a consensus that "the biggest

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[95] *The Odyssey of the MOVE Remains*, 57.

problem the museum director faces in this collecting activity is not the museum's activity, but the collecting activity of his or her board members."[96] Flanders, recollected

> "During the pandemic I had a box show up from our CEO, one of the fellows, was like 'Hey, here I found all this stuff, theses skulls I got.' and I had to return all of them because I hadn't had oversight over the process, it just showed up."

This extends to the concerns about donations from the general public, an anonymous curator expressed multiple incidences where the museum refused to accept a donation and the remains ended up in the trash at which time the medical examiner was called (paraphrased).

Active collection of human remains has slowed in the twenty-first century. As seen in figure 3, most responses indicated that the remains in their collection were acquired from a medical examiner or medical institution within the 20 to 50 or 50 to 150 years ago ranges and all responses indicating remains were exchanged for monetary value or by archeological excavation were acquired 50 to 150 years ago. An anonymous curator stated,

> "We don't really collect anymore… remains were found, remains are here and they need somebody to take care of them… you don't want remains just sort of floating out there, like other parts of your institution like in a closet, like no one's inventoried them or thought about them... Or like microscope slides."

Medical and forensic collections stressed the importance of consented donation either from living donors or next of kin. Flanders stated,

> "We've been turning down tons of donations since 2019, I guess, of people, of anyone who's trying to donate something, like, they just found in their attic… Our preferred donation now is just from living donors that can actually sign a Will for what to do with their stuff or actually sign the Deed of Gift if it came out of them."

Access

Although not formally accessioned, the MOVE remains were allowed to be used in research associated with the University of Pennsylvania. At the time of the Coursera video series, the research on the remains was being conducted in an undergraduate senior thesis which

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[96] Coggins, "The Ethics of Collecting Cultural Property," 390

discussed the MOVE bombing and attempted to estimate the age of the remains by x-ray analysis.[97] The academic use and later digital display to a wider audience brings into consideration the ethics of access to human remains collections and the differences between private research access and public viewing. Interviews indicated that research requests to human remains are handled first by inquiry to the collections manager, curator, or director. An anonymous curator stated,

> "If someone wants to use something, they have to come to me… so automatically the provenance question of where the individual is from and whether or not it would be appropriate for someone to use them in research, um, all is already getting filtered. The interesting this about that is like, it probably shouldn't just be one guy… that's something that's probably be built out in the future… an additional interface between the researcher and the collections care profession"

Additionally, they stated,

> "No is always an answer, and I don't mind telling people no… but at the same time you want to say yes, otherwise why do these collections exist"

Flanders stated,

> "I feel like no other departments actually understand what the ethical standards are, but since we control access to all the stuff, I don't really necessarily need them to understand, I just tell them no you can't have it."

Digitization is favored over on-site handling of human remains and is delivered directly to researchers, when possible; especially during the pandemic when in person visits were restricted. This is in line with various codes of ethics, such as AAM's code of ethics and the Society for American Archaeology's "Statement Concerning the Treatment of Human Remains," to treat remains with 'dignity' and to only allow those with collections handling training to handle human remains. Regarding access and handling, Flanders stated,

> "When I first got here, basically, education and other departments could just get into the collection whenever they wanted and take stuff out, so I made sure everyone got locked out that wasn't museum staff so we'd stop having things used in ways that we, were, we'd have to bring them up to speed on the ethics of it as well."

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[97] *The Odyssey of the MOVE Remains*, 60.

Digitization may present additional ethical concerns when the material is made accessible to the public. This comes from a medical perspective of protecting personal information and maintaining a consent narrative but can have adverse effects on public transparency. For example, regarding 3D printing of human remains, one anonymous curator presented the technique as a method of ethically allowing students to study human remains outside of a lab setting within bone boxes (paraphrased), whereas another anonymous curator worried that, once 3D printing instructions are published, anyone can misuse that person's image,

> "That 3d print, you could print it right now, you could go to (institution website) and print off a version of the skull if you wanted to… so you have to make that decision in a very conscious way"

This sentiment is extended to digital photography of human remains on exhibit or photography displayed online. Flanders stated,

> "We also do not propagate photography of any of our bone specimens anymore, they basically stay on exhibit."

Multiple participants in different institutions were in the process of building an online access database for researchers. In interviews, the curators and collections managers expressed a disconnect in ethics between the research community and collections management, an anonymous curator stated,

> "The research community does not have a great sense of what is in this collection, because it is, and a lot of that's just logistics, cause I don't know, like we don't have a lot of people, it's hard to get to, we don't have a transparent database… that's a part because of design, that's a part because of infrastructure, the money."

Flanders stated,

> "I had the position that we don't exhibit any human remains at all, um, in the online database, like well have the information about it, but if you want an image you need to talk to us. And I got some push back from other departments that say 'well people want to see that', and I'm like okay well [if] people want to see that, they can come to the museum, they're not gonna see it online. We're not just advertising peoples', you know, bones on the internet."

An exception to this generalization is that The Mütter Museum does currently have photos of human remains on the museum's website and in the Open Research Scan Archive.[98] An anonymous curator commented that some public uses of images of human remains, including the Mütter's use of a two headed fetal skeleton on a tote bag, initially made them feel uncomfortable, but that over time, they came to understand that viewing human remains can have a deeply therapeutic effect on people (paraphrasing). Crediting, in part, the Death Positivity Movement, a greater audience has been drawn towards human remains collections with the purpose of gaining a better connection with death and dying. This has had positives and negatives on maintaining access to human remains collections, Passalacqua stated,

> "We get a lot of requests from people to, like, tour our decomposition facilities and they're always like 'I just want to see with dead people look like,' you know, 'it's my mother's birthday and she's always wanted to see a decomposing body, can I bring her to your facility?' weird stuff like that, but people don't appreciate that it's a research facility, right. It's a lab but it's a lab that's also like kind of a temporary cemetery… We really don't want people to think of it as that, but at the same time it is like a very quiet peaceful place where our bodies are decomposing and they're doing it in a, you know, natural sustainable way and it helps, at least some folks, have a better relationship to death and dying and kind of giving back through death."

Although all survey participants indicated some form of records relating to human remains were accessible to the public, one out of the five interviews specified that their collection was only displayed to researchers. The other four institutions stressed the importance of proper context in which the remains are displayed. An anonymous curator described the remains as partially hidden behind a corner within a larger display of a historic doctor's office (paraphrased) and Shannon Fox from the International Museum of Surgical Science recollected,

> "Our trepanned skulls in our collections, we have about five of them, were stored next to the restroom, which I felt was very disrespectful. So, I ended up moving them, finding a better home for it and just trying to present it in a better way."

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[98] "Virtual Tour of the Mütter Museum," The Mütter Museum of the College of Physicians of Philadelphia (College of Physicians of Philadelphia), accessed April 28, 2022, https://muttermuseum.org/stories/videos/virtual-tour-mutter-museum.

Another anonymous curator stressed that, when they reopen after the pandemic, any remains on display will have a consent narrative and to exclude remains with traumatic histories,

> "If this individual was disinterred, like so like, graverobbing is part of medical history. If this person was disinterred, we would not put them on display… there's no consent narrative… And that seems easy, I think. You know, executions are a pathway into medical, or into all remains collections, so again, sound easy, but you say to yourself, we would never put anybody in recent history, as long as I've been here, who was a known execution narrative on display, but, like, it's important to write that down as a guideline… [They would need] Some consent narrative for the individual to be on display, who would be available for research is different than who would be available for public display."

Documentation

Because there was not a formal acquisition of the MOVE remains, documentation of the remains was retroactively described in Tucker Law Group's report by tracing who was holding them at the time. Between 1986 and 2018, the remains moved with Mann and Monge, but details of their exact location and use during this time are unknown. Provenance could be documented for the remains because they were acquired from a specific event, but this is relatively uncommon for human remains collections. The survey indicated that time periods 0 to 20 years ago, 20 to 50 years ago, and 50 to 150 years ago did not have different levels of associated documentation, but, in interviews, documentation of provenance was the most emphasized ethical concern. An anonymous curator stated,

> "I would argue it is the first pathway to ethics, right, so like, knowing who is here is probably the most important and first thing that you can do…Understanding the history of every individual in the collection as much as you can, um, is the gateway for all other ethical discussions."

They also reflected on documentation influencing display decisions and research,

> "If you are putting human remains on display, provenance is everything, in some respects. If you're going to make that person available to the public, you need, we have made the decision that you would have to convey their full story as we know it."

At the International Museum of Surgical Science, human remains are displayed within a larger context of medical artwork. Shannon Fox, curator, also reflected on the difficulty of tracking provenance,

> "I know that they were donated by a doctor in the 50s, but that's where it ends"

Forensic collections maintain the most detailed and accurate documentation because they rely on consented donation. Medical and pathological museums fall second as a person's medical history is important to contextualize taxonomy. An anonymous curator stated,

> "Like we wouldn't put those on display, but like how useful they are in education and science anyway? Because if you're thinking about medical science, if you don't know anything about them it becomes very hard to use them in research… So, like if we have an individual that's being used to teach anatomy, like remains being used to teach anatomy, the anatomists press me on provenance. I find that a lot of people are asking these questions now, in the research community"

Medical and pathological collections containing unprovenanced remains can be difficult to use in research, but some can still serve educational purposes. An anonymous curator described a skull which had been painted and used as a candy dish in a doctor's office without further documentation. Although they specified that this skull would never be put on display, it is shown to medical students as an emotional example of previous dismissive attitudes towards remains that permeate the profession (paraphrased). As stated in the survey section, managers of collections focusing on anthropological remains did not participate in this study, although others commented on the difficulty in remedying provenance in anthropological collections as compared to medical and forensic collections, Flanders stating

> "Obviously it's very different for us in some ways because we can sort of be aloof to some things. Like for some anthropology museums, the question of repatriating some stuff is almost existential to their existence… A lot of their collection is stuff that, I think a lot of us are starting to agree, should probably not be in a museum without the express consent from the donor or person it was taken from."

De-accession, Return, or Repatriation

As stated previously, the only federal statute regulating the return of human remains and sacred artifacts is NAGPRA implemented a federal register of the remains of recognized Native

American groups to which a tribe can make a claim for repatriation under the precedent of property law. "Culturally unidentifiable" remains require deposition with permission of the Secretary of Interior on a case-by-case basis and any claim can be disputed by the museum.[99] An anonymous curator reflected on the early professional hesitancy towards NAGRPA and the possible implementation of similar legislature for Black Americans,

> "I'm not afraid, I'm not worried about what could happen… I think a lot of people now would say NAGPRA has been a net good for science… because it's brought, the dialogue between indigenous communities and has increased dramatically because it's had to… and so my assumption would be that those kinds of things you could find, after the initial trepidation, that there would be a similar outcome where communities, museums and affected communities would be brought together in new ways to have robust discussions and from that would come a lot of knowledge… I don't always know if a law is the best way to get at the ethical conclusions that you want, um, but it might be the only way to get people growing in the same direction."

One response on the survey reflected a history of repatriation in compliance with NAGPRA and zero responses indicated that repatriation efforts had been made for remains outside of NAGPRA, see figure 3. This may have been an error in using the term 'repatriation,' which can be defined as a return to the original community or it can refer exclusively to the return of human remains and objects that are determined to be sacred, ceremonial, or cultural patrimony associated with Native Americans.[100] A more general term such as restitution or return may have yielded more responses as Flanders described the return of non-Native American remains,

> "If we have a request for repatriation, we're not really going to debate it. If it's like indigenous, we'll just have to do the federal register process and everything. But, like we [air quotes] 'repatriated' a skull to Australia a few years ago of a soldier that at first, I think there was some like internal desire to not return it

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[99] Vicki Cassman, Nancy Odegaard, and Joseph Frederick Powell, *Human Remains: Guide for Museums and Academic Institutions* (Lanham, MD: AltaMira Press, a division of Rowman & Littlefield Publishers, 2008). 236-237

[100] "Code of Ethics and Professional Practices for Collections Professionals," Collections Stewardship Standards (American Alliance of Museums, February 24, 2021), https://www.aam-us.org/wp-content/uploads/2021/03/Code_Ethics_Collections_Professionals_2021_02_24.pdf.

> because he has a headstone, the rest of him is buried somewhere, and his head was collected during normal Army pathological procedure. But, in the end, we're like 'Well, whatever. What are we doing with it? Let's just let them have it.' It was both the path of least resistance and, I think we all reached a realization, probably the right thing to do, even though this is not an underrepresented group."

The issue of repatriation or return becomes more complicated with regards to collections containing Black Americans because there is not a reliable way to trace geographic genealogy due to the Atlantic Slave Trade and African Diaspora and there are not Black governing bodies to return the remains akin to Native tribes. Flanders discussed uncertainty within situations where genealogy could not be determined,

> "The issue with a lot of that stuff is there isn't enough provenance to repatriate in a meaningful way. It would be great if we got some sort of guidance once there's an officially acceptable way of doing it cause for people where you have no name associated with them and no history at all, people have said 'Hey you should return all of this,' and we're like 'to whom?' We can't just throw it in a pit in the ground… It will be interesting to see how we feel if some Act passes that says if you think something is a minority specimen of any sort."

Remains to which living direct descendants can be traced can also result in complications as next of kin rights and cultural perceptions of death change over generations. Passalacqua reflected on how next of kin disputes affect consented donation,

> "Next of kin changes, you know, for example, we've had a couple people that were donated to us by their spouse right, so I die I want to be donated to Western here, my wife donates me, my kids get [angry] at my wife, right, and they say we don't want Dad in this skeleton collection, we want to bury him, and she's like, well, he wanted to be donated and I'm the legal next of kin, I'm the spouse, so I donated him. the kids want the remains And for us, fine, I don't care at all, you know, we just want to help people do whatever they want to do. But once you die you lose agency over what happens to your body and still your next of kin decides and when your next of kin does something you don't want done with your body, you don't have a voice to say I don't want you to do that, and when your next of kin changes then that can change too, right. So as cultural perceptions of death and bodies change, you know, what happens to those collections can change."

The second option when return or repatriation is not possible is to de-accession the remains. An anonymous curator described the process of de-accessioning human remains by first asking the owner or school if the remains have educational use elsewhere and, if not, the remains are cremated. The curator stressed promoting publicity during any process of de-accessioning

human remains to allow for other approaches to come forward (paraphrased). This is reflective of US policy in which most states cremate the remains of unclaimed bodies.[101] Some areas of the US have implemented memorials for the unclaimed, such as Philadelphia's policy of holding cremated remains for ten years and then burying the remains under a group headstone.[102] Cremation was the only presented second option of de-accession within interviews, but some had concerns that this still fell within murky ethical waters as it removes any possibility of future claims of return. Passalacqua stated,

> "We're big believers in, like, these aren't ours. They were donated to us and we're curating them, but if someone were to want them back, good you know. North Carolina has a state law that unclaimed bodies need to be cremated and buried at sea, I believe, which its not as weird as it sounds maybe. But, you know, I would argue that if a body is unclaimed, so like, I die, I have no next of kin or my next of kin doesn't want to claim my body for whatever reason, then I become a burden to the state. Right, my body is taking up space in a medical examiner's office somewhere, the state is paying to house my body for a certain amount of time, so their gonna bite the bullet and pay for cremation and pay for my ashes to be scattered away. I understand why they do that, but at the same time, why not use us as a repository. You know, give us those bodies, we can keep them in our donated collection, or maybe keep them as their own separate collection, right, and use them for something. And then if the next of kin ever wants them back, we can give them back. We have them, you know, they're not cremated and gone. I don't know if that's good. Maybe that's more problematic than the body just being cremated and disappeared."

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101 Mary Jordan and Kevin Sullivan, "Alone in Death," The Washington Post (WP Company, September 17, 2021), https://www.washingtonpost.com/nation/2021/09/17/alone-death/.

102 Allison C Meier and Aaron Asis, "The Island of Unclaimed Bodies," Wellcome Collection (Wellcome Collection, February 5, 2020), https://wellcomecollection.org/articles/XjfyYRIAACEAFM5S.

Chapter 4

CONCLUSION

Through analyzing historical context, the development of collections ethics and theory, current controversies, and the responses to the survey and interviews, six conclusions can be draws as representing the current ethical priorities of human remains collection policy. Creating a deep attachment of historical

- Creating detailed historical context of human remains aids in restoring personhood to members of communities that have been previously viewed as objects.
- Provenance is considered the top priority in ethical considerations and determines factors of acquisition, access, and repatriation or de-accession.
- Consented donation is prioritized in collections that are actively acquiring human remains.
- Research involving human remains is restricted at the discretion of curator or collections care professional, but public access to collections is restricted to remains on display and, in some cases, written records.
- Museum professionals have less hesitancy toward the extension of NAGPRA for Black Americans than seen in the original reaction to NAGPRA, although questions of practical action remain.
- Repatriation or return is the preferred method of de-accessioning human remains, but cremation is used as a secondary option.

Further research surveying a greater number of museums as well as including anthropological collections that have unique ethical questions when compared to anatomical and forensic collections needs to be completed to make comprehensive conclusions. Questions, such as does the age of ancient remains impact ethical considerations, and if so when, can or how do museum professionals build a consent narrative when interacting with cultures that may not follow a western concept of consent, uniquely impact archaeological remains and raise questions as to if the same ethical format can or should be applied to all human remains collections. Additional research needs to be conducted into the practical application of ethics. In addition to a formal mechanism of repatriation for minority groups outside of NAGPRA, funding and staffing considerations need to be considered. Conservation and preservation efforts are often listed as a

part of ethical stewardship, but collections rarely have the funds to maintain the highest standards, Passalacqua stating,

> "Part of our problem is we have a $0 budget for the unit to operate. We have to request money for gloves, we have to request money for boxes, and the nice acid-free stuff is much more expensive than the non-acid free stuff. And so, we have the best stuff we can afford.

This extends to the funds needed to hire staff in efforts to expand ethical guidelines.

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Appendix

GOOGLE FORM SURVEY

Human Remains Acquisition and Repatriation Climate Survey

PLEASE READ CAREFULLY BEFORE COMPLETING THIS SURVEY

This survey is designed to gain insight into institutions containing human remains collections' acquisition and repatriation policy. Responses and analysis of the survey will be included in a senior thesis through the University of Delaware by Anna-Colette Haynes (achaynes@udel.edu) and under advisement from Dr. Karen Rosenberg. The survey should take 5 - 10 minutes to complete. Because human remains collection's ethics and policy are sensitive subjects, identifying information (name, institution, or specific location) will remain concealed. The institution's name may be used in historical context or during a review of current events within other sections of the thesis but will not be used in direct reference to the data collected or to assert certain answers correspond with specific institutions. An additional comments section is also provided and can be directly quoted, but the identity of the quote will remain concealed. There is also an option listed for an in-person or zoom interview which can exclude identifying information at the interviewee's request. The data gathered from this study will be held within a university email account protected under two factor authentication, but there is a small risk of hacking or otherwise leaked non-identifying information, such as IP addresses, outside of the researcher's control. Responses will be analyzed beginning on February 16th, 2022. If at any point before this date you wish to retract your responses, please email Anna-Colette Haynes at achaynes@udel.edu and your responses will be terminated.

* Required

1. Email *

2. The majority of the human remains collection can be described as...

Check all that apply.

- [ ] Archeological
- [ ] Anatomical
- [ ] Forensic

Other: [ ] _____

3. ...was acquired within the past 50 to 150 years.

Mark only one oval.

	1	2	3	4	5	
None of the collection	◯	◯	◯	◯	◯	The majority of the collection

4. ...was acquired within the past 20 to 50 years.

Mark only one oval.

	1	2	3	4	5	
None of the collection	◯	◯	◯	◯	◯	The majority of the collection

5. ...was acquired within the past 0 to 20 years.

Mark only one oval.

	1	2	3	4	5	
None of the collection	◯	◯	◯	◯	◯	The majority of the collections

6. In regards to remains acquired within the past 50 to 150 years, please select all that apply.

Check all that apply.

- [ ] Time frame is not applicable to the collection.
- [ ] Provenience, acquisition, and/or historical records are associated with human remains.
- [ ] Records associated with human remains are accessible to the public.
- [ ] Were exchanged for monetary value to enter the collection.
- [ ] Were acquired by the institution through an archeological excavation.
- [ ] Were willed before death to enter the collection with consent of the donor.
- [ ] Were acquired by the institution through a medical examiner or medical institution.
- [ ] The institution has repatriated human remains protected under NAGPRA.
- [ ] The institution has repatriated human remains outside of remains protected under NAGPRA.
- [ ] Remains have undergone destructive sampling.
- [ ] Remains have viable trace DNA.

7. In regards to remains acquired within the past 20 to 50 years, please select all that apply.

Check all that apply.

- [ ] Time frame is not applicable to the collection.
- [ ] Provenience, acquisition, and/or historical records are associated with human remains.
- [ ] Records associated with human remains are accessible to the public.
- [ ] Were exchanged for monetary value to enter the collection.
- [ ] Were acquired by the institution through an archeological excavation.
- [ ] Were willed before death to enter the collection with consent of the donor.
- [ ] Were acquired by the institution through a medical examiner or medical institution.
- [ ] The institution has repatriated human remains protected under NAGPRA.
- [ ] The institution has repatriated human remains outside of remains protected under NAGPRA.
- [ ] Remains have undergone destructive sampling.
- [ ] Remains have viable trace DNA.

8. In regards to remains acquired within the past 0 to 20 years, please select all that apply.

Check all that apply.

- [ ] Time frame is not applicable to the collection.
- [ ] Provenience, acquisition, and/or historical records are associated with human remains.
- [ ] Records associated with human remains are accessible to the public.
- [ ] Were exchanged for monetary value to enter the collection.
- [ ] Were acquired by the institution through an archeological excavation.
- [ ] Were willed before death to enter the collection with consent of the donor.
- [ ] Were acquired by the institution through a medical examiner or medical institution.
- [ ] The institution has repatriated human remains protected under NAGPRA.
- [ ] The institution has repatriated human remains outside of remains protected under NAGPRA.
- [ ] Remains have undergone destructive sampling.
- [ ] Remains have viable trace DNA.

9. There is a current or recent (within the past two years) effort to reexamine or expand human remains policy within the institution.

Mark only one oval.

- ( ) Current
- ( ) Recent
- ( ) No

10. Additional comments (review the conditions of providing comments under "PLEASE READ CAREFULLY BEFORE COMPLETING THIS SURVEY")

11. Are you willing to be contacted for an interview?

Mark only one oval.

- Yes, I am willing to be contacted for a zoom interview.
- Yes, I am/will be in the greater Philadelphia area and am willing to be contacted for an in-person interview.
- No

12. I agree to the conditions of this survey as stated under "PLEASE READ CAREFULLY BEFORE COMPLETING THIS SURVEY" and the responses I provided are true to the best of my knowledge. I understand that by selecting no, the answers I provided will be terminated. *

Check all that apply.

- [ ] Yes
- [ ] No

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