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**National Barriers Impeding the Implementation of NAGPRA: Suggestions from a Small
Institution**

**Zoe Milburn
Honors Thesis
April 12, 2022**

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Chapter 1: Introduction

For decades, Indigenous burials and remains were targeted by scientists and collectors. Having been slotted as “others” and “savage” by early scientists and anthropologists, Native people were marginalized and treated as barely human (Ingold 2018). This “othering” of Native peoples and treating them as people of the past is highlighted by the exhibition of a Yahi individual commonly referred to as Ishi. Considered the last of the Yahi people, Ishi was placed in the University of California Museum of Anthropology (now the Hearst Museum) as a living exhibit (“Ishi”). While on display for white audiences, Ishi created projectile points and recorded “Yahi songs and stories” (“Ishi”). Ishi served as an exhibition piece until he succumbed to Tuberculosis in 1916 (“Ishi”). The objects and recordings created by Ishi are still housed at the museum (“Ishi”). Not only were Indigenous people treated as “others” while living, but they were even treated as barely human in death (Ingold 2018). Despite Ishi’s anguish at being exhibited alongside disinterred Indigenous people and his wishes to be cremated to avoid a similar fate, Ishi was subjected to an autopsy (“Ishi”). This resulted in his brain being removed and shipped to the Smithsonian before his body was cremated and interred at a cemetery (“Ishi”). Ishi’s brain was returned to a descendent in 1999, following a search conducted by a Duke University faculty member of Smithsonian warehouses (Curtius 1999).

This increased focus on Indigenous remains stemmed from 19th-century anatomist Samuel George Morton’s theory that cranial size can be used to determine race and intelligence (Thomas 2000). While many remains were collected from graves, skeletal collections were also created using other methods. These included decapitating recently deceased individuals (including victims of war and massacres) and shipping recently murdered individuals to museums (Trope and Echo-Hawk 2000). From the skulls amassed by collectors and researchers,

Morton argued that Native skulls not only indicated deficiencies in intelligence, but that they also suggested that Indigenous people could not be civilized (Thomas 2000). Of these generated skeletal collections, many were utilized by researchers and government officials (like Morton) to prove racial inferiority and provide support for the relocation of tribes from ancestral lands (Trope and Echo-Hawk 2000). Of those not undergoing research, large collections of Indigenous remains and cultural items were collected and displayed in museums (Weiss and Springer 2020). Trope and Echo-Hawk indicate that national estimates of individuals exhumed and displayed “by government agencies, museums, universities, and tourist attractions” are between one hundred thousand and two million (2000, 125). This disproportionate exhumation and desecration of Indigenous peoples and grave sites was only possible due to gaps in legislation (Trope and Echo-Hawk 2000).

Citizens and federally funded institutions alike utilized the gaps present within legislation to amass large quantities of Native remains (Trope and Echo-Hawk 2000). These gaps stemmed from inheritance of common law (“judge-made law” that is altered as needed) practices from Europe, which failed to account for burial practices of Indigenous communities (Trope and Echo-Hawk 2000). This exploitation and disenfranchisement were furthered by withholding personhood (granted in 1879) and citizenship (granted in 1924) from Native people (Trope and Echo-Hawk 2000). Indigenous communities were further disenfranchised by the introduction of the Antiquities Act of 1906 along with court rulings in several cases, which resulted in the identification of Native remains on federal land as “archaeological resources,” the defining of older remains as non-human, and the dissection of the term “cemetery” to remove Indigenous cemeteries from this classification or to deem them abandoned (Trope and Echo-Hawk 2000, 130). A legal argument based on rights to equal protection, sovereignty, and the common law

was formed to bring power back to Native groups regarding ancestral remains and cultural items (Trope and Echo-Hawk 2000). This resulted in the passing of legislation to protect unmarked graves and to create a framework for repatriation even before the institution of the Native American Graves Protection and Repatriation Act (NAGPRA), which occurred shortly after in 1990 (Trope and Echo-Hawk 2000).

The desperate need for legislative action with regard to human remains is exemplified by the treatment of individuals after the Wounded Knee Massacre of 1890, which was highly publicized in an effort to cement public views of Native communities as a threat to non-Native people (LaDuke 2016). A journalist at the time describes the looters as “vultures circling around the people they had just murdered...going as far as cutting off the foot of a murdered infant for its beautiful handmade moccasin” (LaDuke 2016, 103). Clothing, remains, scalps, weapons, and other items were taken from the Wounded Knee site. Of these cultural items removed from the site by citizens and federal institutions alike, many of them were “housed at the Woods Memorial Library Museum in Barre, Massachusetts (LaDuke 2016, 103). While a letter was sent in 1992 to the museum requesting the items held on site, the repatriation process was slow and hindered by the strict definitions featured in the legislation.

The passing of NAGPRA (43CFR10) was intended to provide Indigenous communities with the same legal protections surrounding cemeteries and graves awarded to most American citizens (Trope and Echo-Hawk 2000). Since its passing in 1990, federally funded institutions have been working through the legal requirements set forth by NAGPRA. The requirements, which include the creation of an inventory, consultation with affected tribes and organizations, and the subsequent return of skeletal remains and cultural items, provides a roadmap for the repatriation of Indigenous cultural items. Since its passing in 1990, NAGPRA has “facilitated the

return of about 67,000 ancestral human remains, 1.9 million funerary objects, and 15,000 sacred or communally owned objects” (Nash and Colwell 2020, 226). While NAGPRA has been successful in repatriating large numbers of remains and associated funeral objects, there are thousands more still held in private collections, museums, and other federally funded institutions. The remaining collections indicate that while NAGPRA has been successful, the purview of the law and its implementation are limited.

NAGPRA is outlined in thirteen sections, each of which defines and clarifies the protocols and procedures for compliance with the law. The first section, Definitions (3001), defines various terms important for understanding who NAGPRA affects and what cultural items it protects. These definitions however often fall short, leaving much to be desired. For example, a significant barrier to repatriation is the requirement of “Federal recognition” for tribes. Claims can be made by “lineal descendants, Indian tribes, and Native Hawaiian organizations” (U.S. National Park Service). While rights under this legislation are granted to federally recognized tribes, those without the federal designation cannot make official claims (U.S. National Park Service). In these instances, it is up to the discretion of the institution (U.S. National Park Service). While NAGPRA has opened the door for the return of thousands of cultural items, it fails to provide equal protection for all Native peoples and often struggles to ensure compliance. The legislation breaks down the process of compliance and the order of priority for repatriation. The most important sections of the law for this thesis are sections 3002 (Ownership), 3003 (Inventory for human remains and associated funerary objects), 3005 (Repatriation), and 3006 (Review committee). A more complete breakdown of these sections is presented in Chapter 2.

As previously stated, NAGPRA outlines protocols and protections for Indigenous cultural items. Institutions that receive federal funding must compile an inventory and update the

database within a timely manner to comply with the law. However, Rollins College, like many institutions around the country, has yet to finish this process. Currently, the Rollins College Archaeology Lab (RCAL) houses the remains of at least 67 Indigenous individuals and 93 associated funerary objects from numerous locations around Central Florida. Various pitfalls and barriers in the process have plagued the collections housed at the RCAL and prevented their timely repatriation to descendant tribal communities. These barriers include unclear provenience information, insufficient associated records, a lack of expertise and personnel, and uncatalogued collections.

This thesis focuses on the impact and unrealized potentials of NAGPRA for Indigenous Americans and professional archaeologists following the first thirty years of the law's existence. After providing some necessary background on the NAGPRA legislation and the context of the law's passage, I examine these issues through three distinct methods. The first method focuses on a review of published Indigenous and archaeological literature to identify changes in sentiment around the law as well as to identify known hurdles within the process. The second revolves around my experience preparing a NAGPRA inventory for the Rollins College Archaeology Lab. Specifically, I reflect on the issues that made completing the inventory and identifying necessary information difficult. The third method involves an in-depth analysis of the archival records associated with three collections of Indigenous skeletal remains housed within the lab. This case-study analysis highlights similarities and differences among the three collections in terms of the NAGPRA-related challenges they present, while also emphasizing their applicability to broader discussions of ongoing issues with the repatriation process.

This work demonstrates that while NAGPRA has made great strides towards repatriating cultural items and repairing relationships with Indigenous peoples, barriers within the process

such as unclear provenience, inexperience, and a lack of personnel have impeded this process slowing the return of cultural items. Through an understanding of barriers that exist nationally and the case study analysis, this project looks to identify solutions for small institutions like Rollins College dealing with NAGPRA collections.

Chapter 2: Background

What is NAGPRA?

In 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) was passed as a response to the calls from Native Americans for equal treatment of their dead and the return of their ancestors. The law is organized in the following sections.

Sec.	
3001.	Definitions.
3002.	Ownership.
3003.	Inventory for human remains and associated funerary objects.
3004.	Summary for unassociated funerary objects, sacred objects, and cultural patrimony.
3005.	Repatriation.
3006.	Review committee.
3007.	Penalty.
3008.	Grants.
3009.	Savings provision.
3010.	Special relationship between Federal Government and Indian tribes and Native Hawaiian organizations.
3011.	Regulations.
3012.	Authorization of appropriations.
3013.	Enforcement.

Screen capture from “Chapter 32” ([uscode.house.gov](https://www.uscode.house.gov))

The most important provisions of this law relate to the required action of federally funded institutions and the time frames in which these actions must be completed. These require institutions which receive federal funding to complete an inventory of any Indigenous “artifacts of cultural patrimony” (an object that is representative of that culture) and human remains within their collections (“Chapter 32”). In addition to creating this inventory, within six months of the inventory’s completion, institutions must notify affected tribes or organizations (“Chapter 32”). After this consultation if a Native tribe or Hawaiian organization makes a claim, then the institution must return to the culturally affiliated tribes (tribes connected to the individual being repatriated through genealogy, historical records, geography, etc.) the items subject to the review process (“Chapter 32”, US National Park Service). Cultural affiliation is established through

lineal and geographic relationships, with higher priority placed on genealogical relationships than geographic relationships (“Chapter 32”). Additionally, if multiple tribes or organizations are culturally affiliated, the tribe deemed more closely related is granted control over the process (“Chapter 32”). This is also why the law is broken down by priority, with Indigenous groups having higher priority and federal groups gaining priority if cultural affiliation cannot be identified (“Chapter 32”). The following is a series of important definitions and section breakdowns.

Indian Tribe – This term refers to any “organized group or community of” Native peoples that “is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians” (“Chapter 32”).

Cultural Affiliation – This term indicates a relationship between current Indigenous tribes or Native Hawaiian organizations that is of shared group identity and can be traced through time.

Cultural Items – This term encompasses human remains and the following terms.

Associated Funerary Objects – These are objects that were placed with remains and are currently in the possession of a federally funded institution along with the remains they were deposited with. Additionally, objects made specifically for burial contexts or contain human remains are considered associated funerary objects.

Unassociated Funerary Objects – These are objects that are believed to have been placed with remains but are not currently in possession of federally funded institution along with the remains they were deposited with. The objects are in possession of these institutions but are no longer associated with their burial context. This designation requires a preponderance of evidence around their relation to families or remains, or by

preponderance of evidence that they were removed from a burial culturally affiliated with a particular tribe.

Sacred Objects – This term refers to objects required by “Native American religious leaders for the practice of traditional Native American religions by present day adherents” (“Chapter 32”).

Cultural Patrimony – This term refers to an object that has “ongoing historical, traditional, or cultural importance central to the Native American group or culture itself,” meaning that the object is of representative of the culture not just associated with an individual (“Chapter 32”).

Section 3002 – This section details the hierarchy of ownership as it relates to Native American remains and objects. It follows this hierarchy with actions and protocols to be conducted in the case of remains and objects that are unclaimed, the intentionally recovered, unintentionally discovered, and those that are relinquished to non-Native tribes or organizations. Intentional recovery and inadvertent discovery have more protocols and requirements than the unclaimed and relinquished sections. This section (intentional recovery) outlines four different requirements to be met that permit intentional recovery. These include having a 470cc Title 16 permit, consultation with and consent from affected tribal groups and organizations, ownership of culturally affiliated items follows subsections A (discovered on tribal land) and B (the group with the closest cultural affiliation states a claim), and lastly proof of consultation or consent (“Chapter 32”). Unintentional discovery outlines the steps to be taken before work can be continued at a site. This involves notifying the Secretary of the Department (or other authority on Federal land) followed by the cessation of work for at least thirty days - work may only continue if certification is received (“Chapter 32”).

Section 3003 – This section focuses on the creation of an inventory for associated objects and human remains. This outlines the general requirements, timeframes, and notification specifications involved in the NAGPRA process. The requirements for the inventory include the inventory’s completion no later than November 16, 1995, consultation with tribal government or Native Hawaiian organizations, and the accessibility of the inventory during its completion and afterward to the review committee (“Chapter 32”). While the inventory should have been completed within 5 years of the laws passing, extensions can be and have been granted to institutions that have “made a good faith effort to” complete the inventory process (“Chapter 32”). Once the inventory is completed, within 6 months the appropriate tribes and organizations must be notified with information on which remains and objects are included in the inventory, the “circumstances surrounding it’s acquisition,” lists of objects and remains identifiable to the respective tribe(s) or organization(s), and lists of objects not clearly identifiable to an individual tribe or organization but considered within reasonable belief to be culturally affiliated to a tribe or organization due to acquisition (“Chapter 32”).

Section 3005 – This section defines reasons for repatriation that result in the prompt return of remains and objects. The repatriation section outlines five specifications on the return of remains and objects. These include: 1. Cultural affiliation has been identified and a lineal descendent or associated tribe makes a claim, 2. A tribe or organization demonstrates cultural affiliation and makes a claim on unassociated objects (funerary, sacred, or of cultural patrimony), 3. Consultation with lineal descendent or affiliated tribe to determine manner and time of return, 4. When cultural affiliation has not been established, a tribe or descendant must demonstrate cultural affiliation through “a preponderance of the evidence” (must show evidence among different categories such as genealogy, kinship, geography, linguistics, etc.), and 5. Return of

sacred objects and objects of cultural patrimony where the lineal descendent of the object's owner makes a claim, the request is made by a tribe or organization that can demonstrate previous control/ownership of the object, or the tribe/organization can demonstrate an individual within the tribe owned the object and has no living descendants or descendants interested in the object ("Chapter 32").

Section 3006 – This describes the timeframe for the establishment of a federal NAGPRA review committee and the membership requirements for the established committee. This committee should be created within 120 days after NAGPRA's passing ("Chapter 32"). It should consist of 7 members (three selected by the Secretary after nomination by tribes and organizations, 3 selected by the Secretary after nomination by museums or scientific organizations, and 1 person selected by the Secretary from a list created by both aforementioned groups). This committee is responsible for monitoring the inventory process, in reviewing findings related to cultural affiliation, overseeing the return of culturally affiliated items, mediating any disputes among tribes, organizations, and Federal institutions, in consulting with tribes and organizations, and on making appropriate recommendations on the future curation of repatriated cultural items ("Chapter 32"). The committee will disband 120 days after the Secretary certifies the work as completed in a report to Congress ("Chapter 32").

Who is protected by NAGPRA?

Claims can be made by "lineal descendants, Indian tribes, and Native Hawaiian organizations" (U.S. National Park Service). While rights under this legislation are granted to federally recognized tribes, those without the federal designation cannot make official claims (U.S. National Park Service). In these instances, it is up to the discretion of the institution (U.S.

National Park Service). In Florida, there are two federally recognized tribes (the Seminole and the Miccosukee). While the Miccosukee claim later migration into the region, the Seminole believe that they were the first people to inhabit what is now the state of Florida (“History”, “History: Where We Come From”). Their belief of continual occupation as well as their contemporary existence allows them to make claims on items and remains throughout the state of Florida. Some people quibble with this, as archaeological evidence for this belief is lacking. These individuals argue that attributing remains older than the Seminole’s arrival to the Seminole aids the loss to science. This, however, is Eurocentric as it offhandedly rejects non-Western knowledge, placing it as inferior to Western understanding while also ignoring the longstanding abuse of power and mistreatment of Native remains and peoples in the past. NAGPRA was passed to put an end to the mistreatment of Native American remains, therefore even if the remains are not demonstrably Seminole, the Seminole have a much greater claim to the remains and items of cultural patrimony than archaeologists or other non-Indigenous stakeholders.

The response to NAGPRA

The Archaeological Detractors

After the initial passing of this law, many within the archaeological community expressed outrage as they believed it would degrade science and change the way archaeology was conducted. The negative response to the law is best summarized by Clement Meighan. In 1992, Meighan published “Another View on Repatriation: Lost to the public, Lost to History” as a response to an article published by Andrew Gulliford. In this paper Meighan argues for a lack of direct relationship between claimants and many NAGPRA-related skeletal collections (Meighan

1992). He also argues that due to a lack of written history for Native peoples prior to 1492, archaeology must be used to determine whether a relationship exists between remains and claimants (Meighan 1992). He states that evidence must be used to “to discriminate those tales which are entirely mythical from those which can be confirmed by scientific study” (Meighan 1992). By 2006, Meighan’s views had not changed. In his paper entitled *Burying American Archaeology* (2006) he describes the responsibility of archaeologists to the “extinct” ancient people that he argues will remain without history unless they can be studied archaeologically. His biggest complaint is that the age of the remains should be taken into account, because he believes it impossible to establish cultural affiliation beyond reasonable doubt past several generations of “unrecorded history” (Meighan 2006). Meighan also argues that there is immeasurable information to be learned from human remains that cannot be learned from other sources. Meighan concludes that this law will result in the expiration of American archaeology and that this will be a disservice to all as the information currently known about Native American heritage stems solely from European and archaeological contexts (Meighan 2006). Other authors that argue similar points include Weiss (2001), who recently rekindled the debate around NAGPRA.

The controversy was reignited by Elizabeth Weiss and James W. Springer in their book “Repatriation and Erasing the Past” (2020) and in their co-authored paper “Has Creationism Crept Back into Archaeology?” (2021). In their book, the authors argue that the desire for reburial is a political construct that was not a long-standing cultural belief (Weiss and Springer 2020). This argument is supported by a handful of projects that suggested indifference from Native peoples (Weiss and Springer 2020). Additionally, Weiss and Springer argue that it is the archaeologist’s job to challenge Native histories due to their inclusion of “unbelievable tales”

(Weiss and Springer). This is furthered in their 2021 paper, which decries the use of Native epistemology in NAGPRA decisions, arguing that this is the same as allowing creationism to influence the field (Springer and Weiss 2021). The main complaints offered by the authors surround the loss of data, publication censorship, and infusion of religious views into the field due to collaboration projects. It is their belief that by relinquishing control over remains and project design, the scientific nature of the field is endangered.

The publication and subsequent presentation of their work created mass outrage within the archaeological community. Not only were there attempts to keep them from presenting their work at the Southeastern Archaeological Association (SAA) meeting, but there have since been calls to have the book pulled from the University Press of Florida (Springer and Weiss 2021, Schneider 2021). Since presenting their views at the SAA, Weiss has had her access to skeletal collection revoked at her workplace, San Jose State University (Ortner and Blevins 2022). The book and subsequent paper were labelled by many “as racist, anti-indigenous, colonialist, and white supremacist” (Weiss and Springer 2021). Weiss and Springer maintain that their work upholds several values held by the SAA including stewardship and public education (Weiss and Springer 2021). Critics of the book such as Colwell (2021) describe the book as being “strewn with mischaracterizations, inaccuracies, misleading assertions, false claims, or hyperbole,” and categorize it as scientific racism (Livnstuff 2021). A major complaint presented by critics is that “Repatriation and Erasing the Past” (2020) fails to recognize the colonial history behind the collection of Indigenous remains that resulted in the passing of NAGPRA (Livnstuff 2021).

Ultimately, the controversy is still unfolding with Weiss and Springer defending their work through online articles and within a lawsuit (Ortner and Blevins 2021), Weiss and Springer also re-recorded their SAA lecture, posting it to YouTube and linking it to some of the online

articles they use to defend their work (Weiss and Springer 2021). Several reviews of the book have been published and various social media platforms have featured strong reactions to the publication and presentation of these works (Livnstuff 2021). This debate has sparked interest in changing the way abstracts for meetings are reviewed as well as discussions over what content should (or should not) be given a platform (Bondura 2020).

The Archaeological Supporters

While Meighan, Weiss, and Springer's fears that repatriation and subsequent burial of remains will result in a loss to science, they fail to recognize not only the ethics behind the law but the benefits of creating a working relationship with Native American tribes. The aforementioned authors argue that archaeology is the only way to know the truth about Indigenous cultures, while supporters of NAGPRA argue that repatriation 1. Corrects centuries of damage done to Native American tribes and 2. suggest that there is more to be learned through collaborative research. In 1996, many archaeologists like TJ Ferguson (1996) weigh the ethics of repatriation against the supposed loss of data and material. Ferguson positions the conflict between archaeologists and Native peoples as one of different cultural values before highlighting the "new partnerships" that make archaeology more beneficial for those being studied (Ferguson 1996). This discussion of collaboration was furthered by Larry Zimmerman, who highlights some of these opportunities in his response paper to Meighan (2006). Zimmerman discusses the projects completed by Roger Echo-Hawk in conjunction with Steve Holen (Zimmerman 2006). These projects look at the intersection of archaeological history and oral history, which was previously ignored by archaeologists in the name of objective science (Zimmerman 2006). Zimmerman goes on to highlight the numerous "investigative possibilities" created by working closely with Native American tribes rather than working against them (Zimmerman 2006).

Zimmerman's approach emphasizes the decolonization of archaeology, which can open research avenues that, through collaboration, dive deeper into the archaeological record (Zimmerman 2006). By 2010, publications discussing NAGPRA were mainly supportive of the laws passing but criticized its implementation and flaws. A detailed discussion of the barriers that exist in NAGPRA will be presented in Chapter 5 (Results).

The Native American Perspective

The initial response from the Indigenous community is best summarized by Vine Deloria Jr. in his paper "Indians, Archaeologists, and the Future" (1992). Deloria emphasizes the past treatment of Native people as "objects of scientific investigation" before describing the cries of scientists as painting Natives as looters of "scientific heritage" (Deloria 1992). His complaints mainly center on how contemporary Natives are framed by scientists and argues that while NAGPRA is a step in the correct direction there is much more to be changed internally than was addressed by the law. His paper highlights potential for future collaboration that focuses on current issues rather than on uncovering the past. He suggests reworking/restating major findings so that they are no longer perpetuating stereotypes and derogatory terms. Like Deloria, Joe Watkins (a Native anthropologist) believed NAGPRA to be a step in the right direction. He highlights the law as recognizing that Native people and their objects are tied to their ancestral lands. His biggest complaint about the legislation was that Natives were not fully involved in the writing of the law, which resulted in issues when objects were returned. In many cases tribes did not have reburial ceremonies and thus had to figure out what to do with boxes or repatriated cultural items (Madeson 2018). Another complaint offered by Brian Vallo centered on the fact that Natives were required to provide proof of cultural affiliation (Madeson 2018). Outside of these comments, another large area of concern centered on the financial burden now positioned

on Indian tribes. Funding for the NAGPRA process was coming from Indigenous communities (Madeson 2018). While this proved a burden, Natives shouldered it as reconnecting their ancestors with their spiritual journey was more important than arguing about funding ([Madeson 2018](#)).

Like the archaeological response, Native responses moved from identifying why the law was necessary to focusing on issues that exist within the legislation. Major issues in the implementation of NAGPRA lie within the power structures present. More specifically, “the ultimate authority” is held by museum employees that decide “which information is considered legitimate” (Neller 2019). This power structure makes it difficult for Natives to make their voices heard. Angela Neller (2019) indicates that until tribes are given enough authority, their voices will continue to be drowned out by academia and other interests. She furthers this by highlighting the weight science is given over all other forms of knowledge in NAGPRA decisions. In her and many others’ view (Bray 1996; Lippert 2008; Colwell 2015 as cited in Neller 2019), NAGPRA has failed to “[return] the power over heritage resources to tribes as expected” (Neller 2019). Manley Begay Jr. states that “only some museums and only a few individuals have really adhered to the intent – the legal intent – of the law and also the spirit of the law” (Hwang 2015). This lack of adherence greatly slows the repatriation of cultural items. While the power structure and the lack of adherence to the intent of the law are major issues, there are numerous other barriers that severely impede the return of sacred items and remains. These barriers will be considered more systematically in Chapter 5.

Impact of NAGPRA

Rose et. al. (1996) states that “the passage of NAGPRA has ushered in a period of change and uncertainty for scholars... namely osteologists... and bioarchaeologists” that requires the

inventory and potential return of collections. The passing of the law prompted discussions around the ethics of bioarchaeological research, as well as forced institutions to calculate the number of remains held on site. During this time, northern and southern overviews were conducted to identify the number of individuals disinterred by researchers. From their research they estimated number of 52,540 individuals disinterred from roughly 55% of the continental United States (Rose et. al. 1996). Many were left unstudied while those that were studied were left improperly recorded, essentially leaving the research completed ineffective (Rose et. al. 1996). The change brought by NAGPRA makes it possible for tribes to reclaim these individuals through a determination process (Rose et. al. 1996). This law not only altered the ways in which institutions with government funding interacted with Native Americans but also gave Native Americans more political power than previously held.

NAGPRA gave Native people a say in how the past was portrayed (Thomas 2000). This goes against the previous years of being told their history rather than being able to claim and present their own versions. Given a voice to claim their ancestors and cultural items, Native Americans were finally recognized as a modern, equal people and not as a hindrance to science or progress. This legislation opened the door for Native Americans to speak about their own history and to claim their heritage rather than accept an outsider's perspective. This legislation's impact is still unfolding, but the political voice and the ability to reclaim their ancestral remains and items is a large step forward.

While the law has changed the way archaeology is conducted, causing there to be more accountability (consulting with affected groups) and a shift in the focus of research projects away from human remains, it has also created a much better environment for archaeological research through the new relationships built between Native peoples and archaeologists. NAGPRA has

allowed Native people a greater voice in how their people are treated as well as has brought them to the table for discussion on future archaeological projects. This relationship has led to new projects with a deeper understanding of the cultures being studied. Rather than marginalizing the groups closest to those of study, working with Native people has opened paths that were not considered in past research. Through the combination of the archaeological approach and Native epistemology, a much richer understanding and deeper knowledge of past peoples and cultures can be attained.

Angela Neller (2019) presents several tribal archaeology programs in her discussion of how NAGPRA can be used to create more accountability and to give greater control to tribes. The first group highlighted is the Wanapum Band of Priest Rapids (commonly shortened to Wanapum). While the Wanapum are not federally recognized, the stipulations of their Federal Power Commission license, originally granted in 1955 and renewed in 2008, requires careful management and curation of cultural resources and sites (Neller 2019). The collections housed at the Wanapum Heritage Center include both archaeologist and collector generated collections (Neller 2019). These collections are made available to others for research and education, following approval from the collections management group at the Wanapum Heritage Center. From these requests “a myriad of class projects, honor’s papers, thesis research, and conference” materials have been generated (Neller 2019). The author highlights that this relationship built between the Heritage Center and researchers has not only created a better understanding of the region but has also “led to a broader inclusion of tribal voices” within academic research (Neller 2019). Other tribes within the Columbia Plateau (where the Wanapum live) are also working alongside researcher (Neller 2019). These tribes have their own Tribal Historic Preservation Offices which allows them to curate and care for their collections while also maintaining control

over the number and types of projects conducted using the materials in their possession (Neller 2019).

Ethics of NAGPRA

As NAGPRA outlines protections, protocols, and penalties for dealing with cultural items, the ethics surrounding the study and curation of these items is often a topic of discussion. This discussion takes many forms, but can be narrowed down to the more common questions of “who owns the past,” and “who has the right to determine where cultural items should be housed and who should be caring for them?” (Watkins 2003). Another important ethical question behind NAGPRA centers on whether science should “outweigh the religious, civil, and sovereign rights of American Indians” (Watkins 2003). These questions highlight important aspects that NAGPRA was intended to address. More specifically, NAGPRA was intended to provide Native people with stronger tools to reclaim stolen cultural items, but due to the emphasis placed on cultural determinations, power over determination was left largely in control of scientists (Neller 2019). Not only do they have the power to determine which items are considered for repatriation, but they also have the power to influence how the past is interpreted by large audiences (Watkins 2003).

Joe Watkins (2003) dives into the ethics surrounding NAGPRA and the above questions. He focuses on conflicting values over “resource definition, ownership, significance, and use” as the root for existing conflict between Natives and archaeologists (Watkins 2003). These differences in definition resulted in tensions surrounding treatment of ancestral sites, remains, and sacred items (Watkins 2003). In his discussion of archaeological ethics, Watkins (2003) highlights the differences between the ways the Society for American Archaeology (SAA) Code

of Ethics and the Vermillion Accord “approach the management of the past” (Watkins 2003, 131). The major difference between the SAA Code of Ethics and the Vermillion Accord lies in the Vermillion Accord’s focus on respect and the existing relationships between objects of study and living peoples (Watkins 2003). While both documents attempt to substantiate boundaries for the management and study of cultural items, they have very different potential impacts on archaeological practice (Watkins 2003). Below is an analysis of the SAA Principles of Archaeological Ethics as they relate to NAGPRA followed by the implications of the Vermillion Accord.

The Society for American Archaeology (SAA) Principles of Archaeological Ethics outlines nine principles to aid archaeologists faced with complex situations. With regard to the issues of Indigenous human remains and repatriation, Principle No. 1 (Stewardship), Principle No. 2 (Accountability), and Principle No. 7 (Records and Preservation) are the most important. The first principle (Stewardship) outlines the irreplaceability of in-situ archaeological materials and outlines the role of archaeologists as “advocates for the archaeological record for the benefit of all people” (“Ethics in Professional Archaeology”). This means archaeological deposits should be left undisturbed when possible and requires archaeologists to weigh the desires/needs of different stakeholders. In the conversation encompassing NAGPRA and the presence of Native remains within collections, Natives should arguably be the most important stakeholder in the equation. Principle No. 2 (Accountability) further supports this, as it outlines the importance of consulting affected communities/groups to establish mutually beneficial working relationships (“Ethics in Professional Archaeology”). This issue directly impacts Native communities, which is why consultation should be conducted over the management of items of cultural patrimony. Lastly the seventh principle (Records and Preservation) is useful in the instance that repatriation

is not requested. This Principle outlines the proper and respectful care of archaeological material removed from their in-situ contexts (“Ethics in Professional Archaeology”). Should neither remaining tribe make a claim on the existing collections, the curation of these collections should follow guidelines for their preservation in continuity as well as focus on respect to the individuals contained within them. This means that these collections should never be used as teaching tools and should habitually be inventoried to ensure their preservation.

While the SAA Code of Ethics can be interpreted in the ways described above, the general statements within the document can be implemented in a variety of ways depending on the understanding and needs of the reader. The law provides a series of definitions that allow the practicing archaeologist to make ethical determinations, but due to the focus on the supreme importance of archaeologists, the Code of Ethics falls short (Watkins 2003). Its failure to explicitly recognize the connection between Indigenous cultural items and existing communities’ results in attention being paid primarily to cultural items rather than those affiliated with them (Smith and Burke 2003). The authors further assert that determining a position using the SAA Code of Ethics “becomes more complex” when analyzing an issue through more than one principle outlined within the code (Smith and Burke 2003, 183).

The SAA has recently recognized that its Code of Ethics needed to be altered. At the 2022 SAA conference a forum entitled, “The SAA Has a New Human Remains Statement... What’s Next?” was held to discuss the new guidelines and statement the SAA has on NAGPRA, and human remains. During this forum, changes made to the statement were highlighted and the five new principles were discussed. The speaker’s indicated that the changes resulted in a “tighter statement” that has less room for personal interpretation as well as attempts to give tribes and local communities agency (Brunso et al. 2022). The five principles featured in the new

statement are: “1. Working with human remains is a privilege not a right; 2. Human remains should be treated with dignity and respect; 3. Archaeologists should consult, collaborate, and obtain consent when working with human remains; 4. It is the responsibility of the archaeologist to understand and comply with the applicable law; 5. Archaeologists should follow best practices and uphold the highest ethical standards when working with human remains” (Brunso and Sieg 2021, 26, 27). The new statement was drafted using a survey conducted in 2015 focused on opinions of the existing SAA statement on NAGPRA and the areas that could use revision (Brunso and Sieg 2021). In addition to the new statement guidelines surrounding several issues including, the use of images of human remains in publications and presentations, data sovereignty, and destructive analysis were discussed at the 2022 conference (Brunso et al. 2022).

The Vermillion Accord, created by a group of Indigenous people and archaeologists, however, places respect as the object of supreme importance, shaping its statements around this principle (Fforde 1989, Watkins 2003). Respect extends to remains of the dead regardless of origin, to the wishes of the dead, to scientific research, to working relationships, and to the concerns of both descendants and scientists (Watkins 2003). When analyzing NAGPRA cases under the Vermillion Accord, the interests of local communities and relatives are prioritized (Smith and Burke 2003). The difference between the SAA Code of Ethics and the Vermillion Accord is thus an issue of definition. More specifically, the classification of remains as an object or as an ancestor (Smith and Burke 2003).

As the Rollins Archaeology Lab is currently in possession of Indigenous remains, the future handling of these collections should be analyzed under these codes and should have the implications of their possession considered. Not only is it the ethical responsibility of Rollins College, but as the institution is federally funded, the human remains and items of cultural

patrimony within the Rollins Archaeology Lab fall under the purview of NAGPRA and the repatriation process. While the college has yet to submit a record of the items held by the university, actions are taking place currently to correct this error. Inventories of each site have been constructed to identify the number of individual specimens (NISP) and the minimum number of individuals (MNI) held within the college's collections. The work that has been completed thus far will allow Rollins to complete its first repatriation process and establish a better relationship with impacted communities.

Chapter 3: Sampling and Methods

Introduction

To understand barriers within the NAGPRA process that hinder repatriation on a national scale, this thesis utilizes three methods. These are: 1) a literature review focusing on publications discussing NAGPRA written by archaeologists and Indigenous people, 2) the inventory and analysis of Indigenous skeletal collections housed within the Rollins College Archaeology Lab, and 3) an in-depth archival analysis of three Rollins skeletal collections intended to assess our ability to determine cultural affiliation and proceed with repatriation under the NAGPRA process. These methods provide answers to questions surrounding the level of success within the implementation of NAGPRA legislation and provide the basis for formulating solutions to common NAGPRA-related challenges.

Literature Review

The literature review focuses on two major questions: “What has NAGPRA accomplished?” and “What are remaining barriers associated with repatriation using NAGPRA?” To answer these questions, stakeholder perspectives on NAGPRA are highlighted, beginning with initial reactions to the legislation and followed by more recent perspectives. Throughout this section, the term “stakeholders” is used to refer to archaeologists, Indigenous people and tribes, and federally funded institutions. Progress (i.e., accomplishments) stemming from NAGPRA is assessed through an in-depth analysis of publications from archaeologists, Indigenous authors, and Federal NAGPRA officials, focusing on the number of remains returned versus those still held by institutions. The literature review also discusses aspects of skeletal collections and details of the legislation itself that reduce the effectiveness of the law in terms of its success in facilitating repatriation achieving its explicit human rights goals (i.e., its barriers). Although the

raw number of repatriated remains and objects are considered, most of the information in this section is analyzed qualitatively to provide a complete picture of the issues and success associated with the law’s implementation.

Inventory and Analysis of RCAL Indigenous Skeletal Remains

The RCAL NAGPRA collection currently consists of 67 identified individuals and 93 associated funerary objects. From 1973 to 1990 collections containing skeletal elements were generated and stored within the Rollins College Archaeology Lab. Of these, some were collected during excavations conducted by Rollins faculty and students. Other collections were donated by avocational archaeologists and private collectors from around Central Florida. The current NAGPRA inventory reflects the minimum number of individuals (MNI) as of the writing of this thesis. It is likely that the overall numbers will increase though time as additional collections within the Rollins College Archaeology Lab are processed. Of the two tables below, the first (**Table 1**) depicts the existing collections from known archaeological sites along with the MNI and associated funerary objects (AFO) connected to them. The second (**Table 2**) displays the MNI and AFO for unknown sites and unprovenienced donated collections. Both tables are organized by site and/or collector (for more detailed information on the number of individual specimen present or on the associated funerary objects see the Appendix).

Site Name	Site Number	Site Location	MNI	AFO
Shell Island	8OR452	Orange County, FL	4	0
Cooks Ferry Mound	8SE13	Seminole County, FL	3	34
Cocoa Beach Mound	8BR140	Brevard County, FL	2	0
Montverde (unknown)	Unknown	Lake County, FL	2	0
Montverde	8LA243	Lake County, FL	2	27
Buzzard's Roost Shell Midden	8SE21	Seminole County, FL	1	2
Palmer-Taylor Shell Midden	8SE18	Seminole County, FL	4	0
Cross Creek Site	8AL2, 8AL3	Alachua County, FL	5	0
Shinkle Mound	8BR140	Cocoa Beach, FL	7	14
TOTALS			30	77

Table 1: MNI and AFO from identified sites

Site Name	Site Location	Collector	MNI	AFO
Unknown	Unknown	Central Florida Anthropological Society	1	0
Unknown	Unknown	Unknown	12	14
Unknown	Unknown	Unknown	3	2
Unknown	Unknown	Unknown	8	0
Unknown	Unknown	Unknown	9	0
Various Sites	Various Sites	Grant Groves	4	0
TOTALS			37	16

Table 2: MNI and AFO from unknown sites and donor collections

For the purposes of this project, three RCAL collections were selected as case studies for deeper analyses, which included the collection of both skeletal and archival data for inclusion in the official RCAL NAGPRA inventory. These include excavated collections from the Palmer-Taylor (8SE18) and Shell Island (8OR454) sites, along with a donated collection recovered from multiple Central Florida localities that is referred to here as Grant Groves. The three collections were chosen due to their ability to provide insight into the existing barriers in NAGPRA. The collections fall along a spectrum in terms of the amount and quality of their associated records, and correspondingly, the challenges they present in terms of repatriation through NAGPRA (**Figure 1**). This makes them useful for assessing a broad range of issues that have stifled repatriation cases at institutions around the country. Having various levels of information and associated records, the collections can be used to demonstrate not only which aspects of record keeping are crucial to NAGPRA determinations, but they can also illuminate the compounding nature of missing information and records. Additionally, each of the three sites features an MNI of 4 and an AFO of 0, making direct comparisons between them easier and more effective.

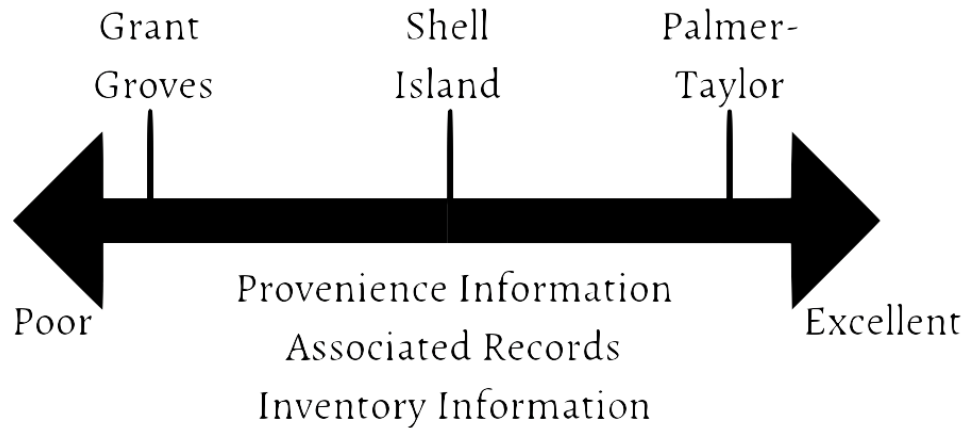


Figure 1: This figure depicts the range of information associated with the case study sites

Figure 1 highlights the important differences in the levels of documentation associated with these collections, while detailed information about individual sites and their archaeological history is provided below. Palmer-Taylor excels in all areas relating to records and information, providing information around collection and identification for skeletal collections. Shell Island has a small collection of records but fails to provide all the necessary information needed to assess repatriation. Grant Groves is a donor collection that features relatively no provenience information, associated records, or inventory information. Ultimately, these sites were chosen due to the various aspects of the barriers within the process they exhibit. Not only do they exemplify the importance of records and provenience information, but also highlight the importance of experience/training as well as the condition of the skeletal elements.

Case Study I: Palmer Taylor (8SE18)

Site Description

The Palmer-Taylor site (8SE18) is located near the town of Geneva in Seminole County, Florida and is about 1 mile north of the Econlockhatchee River junction with the St. Johns River (Stewart 1976 – Research Design). It is situated in a palm-oak hammock (an isolated patch of forest with a slight elevation surrounded by a wetland), in which the slight elevation allows the

trees to grow in contrast to the treeless wetland (Stewart 1976 – Prehistoric Subsistence). The Palmer-Taylor site, which consists of two mounds, has an elevation that is a few feet higher than the surrounding river floodplain and is about 475 feet long and 260 feet wide (Stewart and Zeph 1976). During the wet season water comes within ten feet of the base of the mounds (Irving and Norris 1975). This site is one of the largest shell-matrix sites along the St. Johns River and it has a subtropical climate that befits the Central Florida area (Wyman 1868). The shell middens sit on a basal platform that is split by a small shell-less sink that partially separates the two mounds (Stewart and Zeph 1976). The larger mound (Palmer-Taylor Mound) has a diameter of 260 feet and a height of 6.9 feet (Stewart and Zeph 1976). This mound takes up the southern half of the platform. The smaller mound (Shapfeld Mound) is in the northeast of the platform and has a diameter of 100 feet and a height of 1.9 feet (Stewart and Zeph 1976).

In the 1870s Mr. Palmer Taylor lived on the site and transformed the area into a grapefruit tree orchard (Stewart and Zeph 1976). Some of these trees remained during the 1976 excavation led by Marilyn C. Stewart (Stewart and Zeph 1976). At this time, the site was also a cow pasture and a private hunting preserve (Stewart and Zeph 1976). The site is rich with local flora and fauna, consisting of grassland, cabbage palms, oak trees, numerous species of mammal, reptile, bird, mollusk, and mussel (Stewart and Zeph 1976). The site has been heavily impacted by illicit digging and archaeological excavations with limited to no associated records (Stewart and Zeph 1976). There is a large looter's pit in the center of the mound that covers nearly 15x5 meters of the mound (with the greatest depth being 1 meter) and one of the landowners (Mr. Bills) removed 15 meters of the Southwest portion of the site with a bulldozer (Stewart and Zeph 1976). The site is believed to date from at least the Orange Period (4,700 - 3,700 BP) to St. Johns

II (1,200 - 500 BP) and this can be backed up by the radiometric dating done by Marilyn Stewart and the types of artifacts and pottery found (Jordan et al. 2018).

Archaeological History

Palmer Taylor has a deep archaeological history that has been examined through seven individual projects. The first of these was conducted by Jeffries Wyman in 1868 (Wyman 1868). While there is evidence and records surrounding the existence of Wyman's dig, the location of his collection is unknown (Beasley III 2008). After Wyman, Clarence B. Moore excavated in the 1890s, unearthing fragmentary human remains that he interpreted as indicators of cannibalism (Davis 1996). In 1940, the Excavators' Club, made up primarily of Harvard and Radcliffe students, spent a week performing excavations on the Palmer-Taylor Mound (Davis 1996). The excavation was in collaboration with the Bakers Museum of Rollins College and was led by the President of the Excavators' Club John Rowe (Davis 1996). Fifteen excavators surveyed and mapped the area around the site and the mound; itself they dug an L-shaped trench in the highest part of the mound, which consisted of eight 2 x 2 m squares dug in 10 cm levels (Davis 1996). Some of the artifacts they collected were fragments of human bones, ceramics shards, as well as some evidence of Clarence B. Moore's dig such as a piece of oilcloth and a stake with a nail in it (Davis 1996). The artifacts generated were originally housed at the Peabody Museum at Harvard University, but now reside at Yale (Davis 1996). The following excavation was conducted by Dr. Irving Rouse, who analyzed the data and collections gathered by Clarence B. Moore and the Excavators' Club that had previously been unexamined (Beasley III 2008). Using this data, he was able to define seven stratigraphic layers with the seventh being sterile soil (Beasley III 2008). This stratigraphic sequence was confirmed and used by later excavators.

After Rouse, three Rollins College faculty members conducted excavations on Palmer Taylor. Dr. Dudley DeGroot led two excavations teams of Rollins students to Palmer-Taylor in 1964 and 1965, but these excavations are extremely underreported. The only information available from them exists in the form of damage to the in-situ record (Beasley III 2008).

Dr. Burton Williams led an excavation team of 14 people in 1975 that collected over 1000 artifacts and nearly 3000 pieces of fauna (Williams 1975). The goal of this excavation was to uncover culturally significant artifacts and features over 12 days in the field (Williams 1975). The excavation is described as incomplete due to a lack of time and manpower (Irving and Norris 1975). The group carried out the excavation using a vertical trench (located at N32°W) and seven two-meter squares located fifty centimeters apart (Williams 1975). This means that the entire trench covered 17x2 meters of the mound (Williams 1975). Each level was dug at 20-centimeter levels, except for the first, which was dug at a 10-centimeter depth (Williams 1975). The group used shovels, picks, and trowels during the dig and sifted the artifacts with screens when the finds were abundant (Williams 1975). Pits 1 and 5 were abandoned after 30 centimeters due to a lack of recovered artifacts (Williams 1975). The group ultimately did not establish a cultural history/sequence of the site (Irving and Norris 1975). The authors of the site report base this on an overall lack of motivation among students and the instructor alike (Irving and Norris 1975). The site is documented in a series of photo negatives and prints as well as the associated documents (field records, summary documents, etc.). The collection generated is housed at the RCAL.

Marilyn C. Stewart based her 1976 excavation proposal on the changing subsistence patterns at Palmer Taylor (Stewart and Zeph 1976). Her research design specifies thirteen 2x1 meter squares and several 1x1 meter squares (Stewart 1976 – Research Design). In practice,

there were two 1x1 meter squares, six 2x1 meter squares, and an extra square that was dug to the bottom of the burial in square 9 (Stewart 1976 – Field Notes). Pits 3 and 5 were not completed (Stewart 1976 – Field Notes). Part way through the excavation, pits were relabeled by adding 10 to the number previously assigned (Stewart 1976 – 1976 Catalog). The pits were dug in 20-centimeter levels, with a letter assigned to each stratum if it switched during the designated 20 centimeters (Stewart 1977). Each feature was also assigned a number separate from the 20-centimeter system (Stewart 1976 – Field Notes). The team of 14 spent 2 weeks performing the excavation and related activities (Stewart 1976 – Field Notes). Throughout the excavation the team only recorded the provenience of “important” artifacts (Stewart 1976 – Field Notes). These included an adze, a burial, projectile points, and other items of interest to Stewart and the students (Stewart 1976 – Field Notes). While the team correctly identified the burial in Pit 9/19, they failed to identify the other locations of human remains recovered from site.

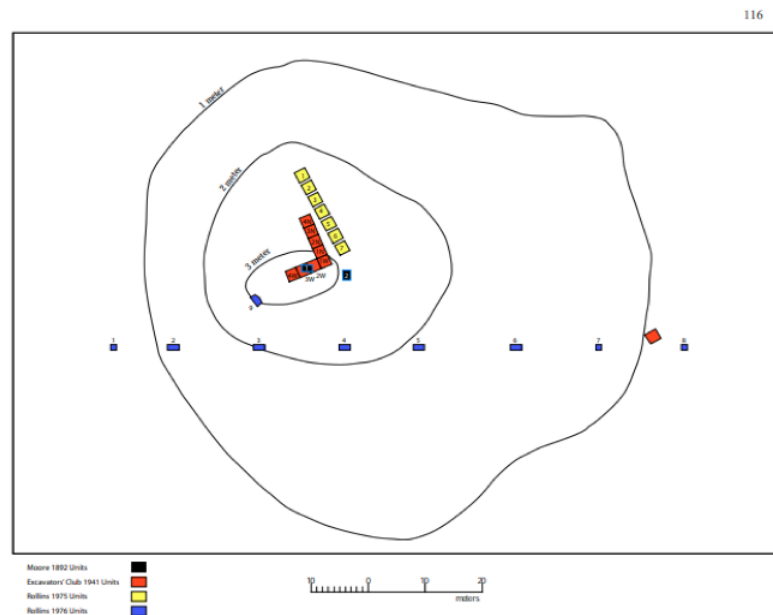


Figure 23: Excavations at Palmer-Taylor Mound

Figure 2: Map of excavations on Palmer-Taylor (Beasley III 2008)

Figure 2 depicts the units dug by Moore (1892), the Excavator’s Club (1940), and Rollins College (1975 and 1976). These are only a few of the excavations done at the site over its long history, but these are the best reported. These units offer a broad insight into the history of Palmer-Taylor and show the scope of the work done on the site.

Case Study II: Shell Island (8OR452)

Site Description

Shell Island (8OR452) is a large pre-Columbian shell mound site on Florida's Wekiva River. The archaeological deposits span around one-third of the island and are approximately 12-15 feet tall (Stewart 1974). These deposits are comprised of gastropod shells (most commonly *Viviparus*), soil, and archaeological materials (stone, bone, marine shell, pottery). Vegetation on the site consists of palm trees, cypress trees, and numerous weeds (Stewart 1974). Fauna uncovered during excavation reveals presence of primarily deer, turtle, fish, and bird (Stewart 1974). Excavations conducted by Rollins College faculty and students have identified five cultural periods (see table below) and have dated the origin of the site to at least 5209-5006 Cal-BP (BP means before 1950).

UGA Lab Number	Context	Material	13C/12C Ratio	Conventional 14C Age BP	2-sigma Cal BP
52676	Test Pit 4, pot	wood charcoal	-23.87	950 ± 20	1033-1158 CE
53632	Test Unit 1, Level E	wood charcoal	-23.95	990 ± 20	995-1153 CE
53633	Test Unit 1, Level H	wood charcoal	-24.63	1520 ± 20	483-603 CE
53634	Pit D, Quad 4, 91-107 cmbd	soot from soapstone vessel	-25.4	2610 ± 20	809-779 BCE
52675	Test Pit 4, base	wood charcoal	-25.81	6150 ± 25	5209-5006 BCE

Table 3: Displays radiocarbon data for Shell Island (created by Dr. Zack Gilmore)

It appears that the site was occupied more-or-less continuously for at least the next 5,000 years. The broad range of the dates indicate that Shell Island’s cultural deposits accreted

gradually as people repeatedly returned to the site for millennia.

Archaeological History

In 1973, a 16' x 16' excavation led by Dr. McLeod, a faculty member in Rollins' Department of Behavioral Sciences, was conducted on the apex of Shell Island (McLeod 1973). This excavation is the largest conducted on site and brought back a large quantity of artifacts. While the collection of artifacts recovered from this dig is rather expansive, the associated records are not. Only one page of notes describes the actions taken during the 1973 excavation. As a result of this poor documentation, another group of students lead by Dr. Burton Williams completed a series of test units on site in 1974. These were placed around the prior excavation, except for one unit that was placed off the apex of the site (Williams 1974). This excavation looked to contextualize the previous one, and provided much more detailed, albeit incomplete, records of their work (Williams 1974). These records include detailed notes by Dr. Williams, numerous photographs, a site map, excavation profile drawings, and student field notebooks. Again in 1982, another group of excavators attempted to contextualize the previous excavations (Weiss 1982). This project was led by a Rollins student Phil Weiss, who was supervised to some degree by Anthropology professor Dr. Marilyn Stewart. It also included members of a local avocational group, the Central Florida Archaeological Society. Many of the issues that plagued the prior excavations plagued this one as well. Incomplete records, inconsistent excavation techniques, and rough digging conditions resulted the recovery of a multitude of artifacts spanning thousands of years and multiple cultural periods with little information.

As all three of these projects were inconsistently documented, and their results left unpublished, the rich cultural history of Shell Island was left virtually unknown for many years. In Summer 2021, a research project conducted by Dr. Zackary Gilmore, Ellie Minette, and Zoe

Milburn aimed to organize, contextualize, and analyze the existing collection. Over several months, the participants completed and digitized the catalog, identified the past excavations on site, and highlighted the rich history of the site. Using information from archival records, a map of past excavations created by the 2021 team (**Figure 3**) is presented below.

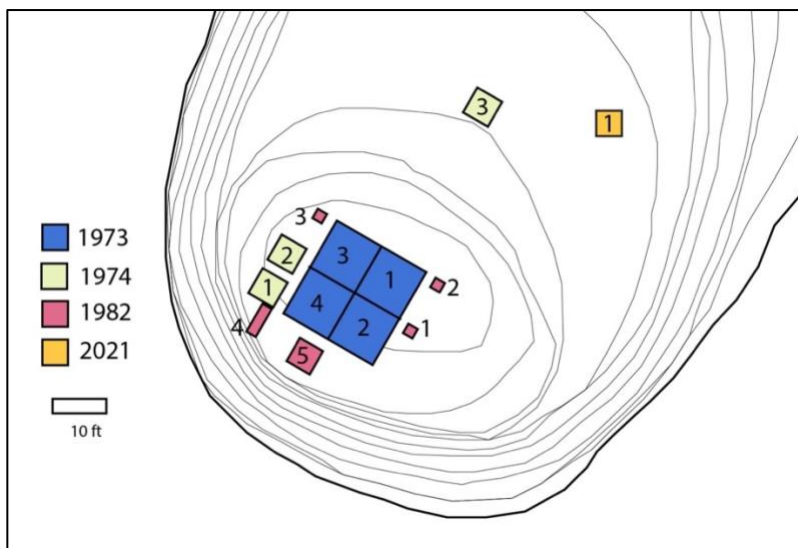


Figure 3: Depicts the past excavations completed on Shell Island (Dr. Zack Gilmore)

In addition to obtaining radiocarbon dates and refining the site’s chronology, the 2021 excavation revealed that the Shell Island deposits contain abundant food remains, broken tools, and charcoal, providing strong evidence that the site functioned as a long-term domestic settlement. It also showed that the site contains significant numbers of nonlocal artifacts, including soapstone vessels from Georgia/South Carolina, chert tools & pottery from the Gulf Coast, and Queen Conch adzes from south Florida. These items reference a broad exchange network that connected the people of Shell Island to diverse communities around the southeastern U.S.

Case Study III: The Grant Groves Collection

Collection History

Grant Groves was a member of the Central Florida Anthropological Society who donated his eponymous collection to Rollins College (Stewart 2005). The Grant Groves Collection comprises multiple sites across Florida and is in the process of being cataloged. Currently, the catalog consists of 30 distinct proveniences spanning 17 sites (3 additional sites remain uncatalogued). As is typical with privately donated collections, there are multiple problems with the information and record keeping associated with the artifacts. While the above stated catalog contains 20 sites, these often only include the site's name, not their exact location. Additional information from each site usually only identifies whether something is from the surface; rarely is more detail identified. A few sites include GPS locations or handwritten directions to the area of collection. This information is retained in a notepad as well on the bag tags included with the designated site. Processing of this collection required close attention to writing on bags, artifacts, and tags to best organize the artifacts according to their original collection. During this initial processing of the collection, artifacts with no provenience were separated from those with information on collection and site. Through the process of recording the information on the original bags and the reorganization of the collection by site, a deeper issue with the collection was identified—the presence of human skeletal elements. All skeletal elements were removed and were added to RCAL's NAGPRA inventory.

Skeletal Analysis

This method, skeletal analysis, was primarily geared toward calculating the Minimum Number of Individuals (MNI) for each site/collection. The value of the MNI is determined by the number of conflicting elements (elements of the same identification and side) along with differences in provenience that indicate distinct internments. To finalize the MNI, skeletal

analysis focused on identification and processing of each element is required. This identification is completed using the comparative collections held by RCAL in CSS 119. Each specimen is identified by skeletal element, sided (identified as being from the left or right side of the body), and organized according to provenience. Once each element is properly identified, the inventory is updated and the MNI is reevaluated.

When skeletal remains are identified in a site, the paper records associated with the excavation are reviewed to gain a better understanding of the recovery methods and to glean whether the excavators recognized the presence of skeletal remains. In some cases, skeletal remains are recognized and intentionally excavated (Palmer-Taylor), while in others the collection appears accidental (Shell Island, Grant Groves). Having records that detail the recovery and processing of skeletal collections facilitates a quicker identification process as well as makes it possible to answer questions relating to cultural affiliation. The condition of the remains also plays a role in the identification process. Many of the skeletal elements housed in RCAL are fragmentary and/or concreted (cemented in calcium carbonate). It is harder to identify fragmented elements, which usually results in the designation UID Human (unidentifiable human). In some cases, this designation can be more specific with a type of bone specified (e.g. long bone). Due to the inability to identify the element, these are not factored into the MNI calculation.

All known human skeletal remains in the RCAL collections have been identified and inventoried. However, the identification process is still ongoing as more artifact collections are systematically examined. While the artifacts from individual sites are cataloged, the bones in each bag are scrutinized to ensure removal of any skeletal remains. This means that as the

cataloging process continues, additional skeletal remains are occasionally added to the NAGPRA inventory.

Archival Analysis

To better understand the issues associated with these case studies, an archival analysis of the primary records housed in the RCAL was conducted. This analysis was designed to ascertain whether these collections can provide necessary information to determine cultural affiliation and initiate repatriation based on NAGPRA guidelines. The two major questions guiding this analysis were: 1) What level of intra-site provenience information exists for the respective remains in question? And 2) What other data (such as relative or absolute dates, associated material culture, and other contextual details) exist in the archives that may help determine cultural affiliation and facilitate repatriation? This analysis was intended to not only highlight the failures in record-keeping and curation that characterize Rollins' collections of Indigenous human remains but also to provide broader insights into that have plagued the NAGPRA process at institutions around the country.

Conclusion

In summary, the three methods (literature review, inventory and analysis of skeletal collections, and archival analysis) outlined in this chapter are all aimed at providing deeper insight into the successes and pitfalls associated with NAGPRA. These questions are addressed through an in-depth analysis of publications written by archaeologists, Indigenous authors, and Federal NAGPRA officials and further evidenced through the case study and archival analyses. The results of these methods are presented in Chapter 4. They also form the basis for the conclusions and recommendations for completing repatriation when faced with limited information or provenience information under NAGPRA, which are detailed in Chapter 5.

Chapter 4: Results

Introduction

This chapter discusses NAGPRA's accomplishments and barriers based on the methods outlined in Chapter 3, including a review of published literature on the topic and an analysis of the Indigenous human remains and archival records associated with three NAGPRA collections from the Rollins College Archaeology Lab (RCAL). The literature review is organized by topic, presenting the information gained from archaeological and Indigenous sources. This is followed by the presentation of results from the archival analysis, focusing on the barriers present within each case study collection to further illustrate the points made within the literature review.

Literature Review: NAGPRA's Accomplishments

My first objective in reviewing the NAGPRA focused literature was to identify the law's successes in facilitating repatriation and achieving its basic human rights goals. NAGPRA focuses on Native American rights to their "ancestors, cultural practices, and religious freedoms" (Nash and Colwell 2020, 226). In doing so, the legislation created pathways for Native American tribes to claim sacred objects and rebury their ancestors (Nash and Colwell 2020). Under NAGPRA federally funded institutions and museums must create an inventory of all human remains, sacred objects, and objects of cultural patrimony collected before 1990 and sets guidelines and penalties for the creation of new collections ("Chapter 32"). NAGPRA is often referred to as human rights legislation that has forced institutions to consider their role in colonialist history and in the coloniality that exists within the field today (Nash and Colwell 2020). By providing this pathway and protections, not only has NAGPRA begun correcting a

long colonialist history, but it has also began mending relationships between archaeologists and Indigenous tribes (Nash and Colwell 2020, Neller 2019).

Improving Working Relationships with Indigenous Peoples

By inviting Native people to be active participants in the consultation process, “stronger relationships can be built and common ground identified” (Neller 2019, 18). Working with Indigenous peoples can contribute to the decolonization of research and collections management (Bader et al.). These conversations can also aid in the documentation of collections (Goff 2019). More specifically, it can provide information that generates more “meaningful and comprehensive” interpretations of collections (Goff 2019, 27). Working with Native tribes can not only provide more accurate interpretations of collections but can also direct science to answer questions of importance to Native tribes (Hayflick and Robbins 2021).

The partnership between the Metlakatla First Nation and the Malhi Molecular Anthropology Laboratory (Malhi) provides an example for how working relationships can create more ethical and mutually beneficial research products (Bader et al. 2021). Malhi presented the uses and limitations of their research before gaining written consent to begin working on the population history of the area (Bader et al. 2021). Since their first collaboration, Malhi Lab and the Metlakatla have partnered for several research projects, prioritizing the interests of the Metlakatla (Bader et al. 2021). This not only provides information desired by the tribe but also benefits the lab through “training, professional development, and career advancement” (Bader et al. 2021, 169). An important aspect of this working relationship is the frequent communications and visits between the lab and the Metlakatla First Nation, as this ensures the desires of the community are still being met and creates a sense of mutual trust (Bader et al. 2021). The collaborative process allows the Metlakatla to provide information to guide the research process,

voice concerns/support for research orientation, help in shaping the interpretations, and utilize science to substantiate their oral histories (Bader et al. 2021).

Repatriation Under NAGPRA

Repatriation under NAGPRA began much slower than tribal members had hoped, with only 20% of human remains being returned by 2010 (Toner 2010). Even after the introduction of 43CFR10.11 addressed the issue of “culturally unidentifiable” remains, making the repatriation of over 100,000 individuals possible (Toner 2010), the pace of actual repatriation has remained slower than many had hoped. Nevertheless, since NAGPRA’s passing thirty years ago, “about 67,000 ancestral human remains, 1.9 million funerary objects, and 15,000 sacred or communally owned objects” have been returned to descendant tribes (Nash and Colwell 2020, 226). The repatriation of remains and sacred objects has been a positive step towards addressing colonialism and righting years of injustices perpetrated against Indigenous peoples (Nash and Colwell 2020).

History Colorado

The work done by History Colorado, as detailed by Goff (2019) demonstrates the above-mentioned accomplishments of NAGPRA. Under NAGPRA, the agency had to systematically analyze and organize their collections, identifying cultural items subject to the repatriation process. This meant that the museum had to sort through and catalog their 29,000 artifacts that were associated with 60 tribes. One major accomplishment of the legislation itself was the mandate requiring museums and other institutions to create an inventory of all cultural items within a collection. This not only helps museums “gain much better intellectual and physical control over its” collections but also makes it possible for Native tribes to make informed repatriation requests (Goff 2019, 28).

The work done by History Colorado also highlights the benefits of working with Native tribes. The author mentions the re-classification of artifacts through the review process with tribal representatives (Goff 2019). This relationship was also used for the benefit of tribal representative. The agency relied on the knowledge of representatives and other tribal members to identify objects subject to repatriation (Goff 2019). In working closely with tribal members, not only was a mutually beneficial relationship created, but the agency also repatriated numerous remains and objects.

Through the consultation process, the agency has repatriated over 800 individuals and 2000 funerary objects (both associated and unassociated) since 1990 (Goff 2019). Working closely with tribal members, History Colorado asked for which remains and objects should be repatriated first. This allowed them to work in waves, working first to repatriate those most important to the affiliated tribes. The approach taken by History Colorado illustrates the potential to repatriate under NAGPRA when time and care are spent during the inventory process (Goff 2019).

Literature Review: NAGPRA's Barriers

Both archaeologists and Indigenous scholars agree that NAGPRA has been a positive change that has drawn attention to issues of ownership as well as restored rights to Native American tribes and people ("20 Years and Counting"). Instead of continuing the debate surrounding ethics and repatriation, the passage of the law mandated the return of skeletal collections and associated objects (Dongoske 1996). This mandate resulted in greater consultation with tribal members, creating discussions around repatriation and analysis of remains (Dongoske 1996). Serving to rectify decades of injustices, NAGPRA aimed to return

ancestral remains and objects to existing tribes (Trope 2013). Despite all these accomplishments, however, numerous aspects of the law and the way that has been interpreted have prevented it from being as effective as it could have been. These barriers within the NAGPRA process were the second focus of my literature review.

The Indigenous Perspective

The “Culturally Unidentifiable”

While NAGPRA has resulted in the repatriation of over 60,000 ancestral human remains, almost 2 million funerary objects, and “15,000 sacred or communally owned objects,” this number amounts to only roughly 40% of the remains held by federally funded institutions and museums (Nash and Colwell, 226; “20 Years and Counting”). According to the NPS inventory of human remains still housed in museums and federal agencies, there are 5,465 culturally identifiable remains and 110,272 culturally unidentifiable remains currently reported. Associated with these remains are 29,331 culturally identifiable funerary objects and 745,981 culturally unidentifiable funerary objects (“Inventories”). The distribution of these numbers is depicted in Figure 4 and Figure 5.

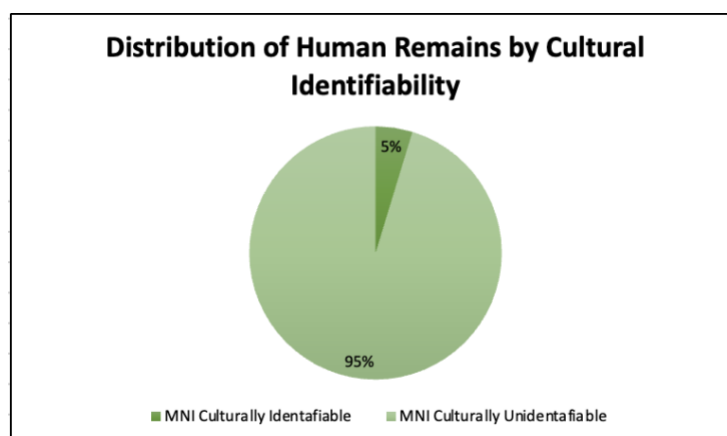


Figure 4: Percentages of cultural identifiable and culturally unidentifiable human remains currently held in museums and other repositories.

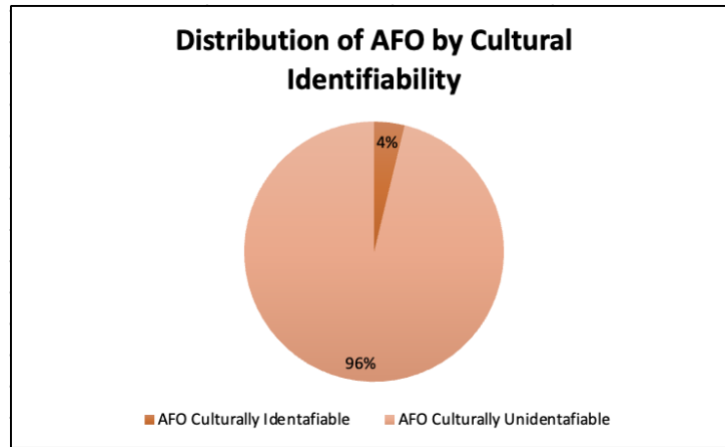


Figure 5: Percentages of cultural identifiable and culturally unidentifiable associated funerary objects currently held in museums and other repositories.

These figures illuminate the issue of “culturally unidentifiable” remains and objects. NAGPRA requires the cultural affiliation of cultural items to be identified before they can be subjected to the repatriation process. This not only places the power back with archaeologists and scientists making affiliation decisions, but also creates space for discussions of what remains are considered identifiable (Riding In 2005). The term “culturally unidentifiable” means “a modern tribe does not seem to have a ‘shared group identity’ with the remains” (Colwell and Nash 2021, 85). The ability to determine a tribe’s affiliation can be complicated by a lack of information on the geographic region a skeletal collection comes from, or poor records associated with the collection.

Until 2010, there were no regulations for handling cultural items deemed “culturally unidentifiable” (Colwell and Nash 2021). These gaps that existed within NAGPRA legislation meant that cultural items determined to be “unidentifiable” would remain at institutions and museums until the cultural affiliation could be determined (Colwell-Chathaphonh et al. 2011). 43 CFR 10.11, an addition to the original NAGPRA legislation, was passed to address the inability to claim the 115,000 cultural items deemed “unidentifiable”. 43 CFR 10.11 provides protocols

for consultation and disposition for Indigenous remains under this category (43 CFR 10.11). This legislation allows to Native tribes and Hawaiian organizations to make requests on collections of “culturally unidentifiable” remains as well as requires consultation when remains and objects have been removed from lands associated with existing tribes. This also implemented an order of priority for human remains subject to NAGPRA (Colwell-Chathaphonh et al. 2011). While this legislation creates a pathway for repatriation, it does not address the scale of the issue. As depicted in Figures 4 and 5, there are tens of thousands of remains and objects categorized as unidentifiable.

Anne Amati and Ellyn DeMuynck (2021) analyzed the data within the NPS inventories to better understand the ability to repatriate remains considered “unidentifiable.” Their work determined that, of the remains considered “unidentifiable,” 94% have geographic information while 73% have culture or age information (Amati and DeMuynck 2021). The slow process of determining affiliation has caused some to argue that certain museums and other institutions have misused the “culturally unidentifiable” categorization, having allotted limited funds and avoided full consultation (Colwell-Chathaphonh et al. 2011). From the data, Amati and DeMuynck argue that 1. Museums have enough information to identify potentially related tribes and 2. Active consultation with Native American Tribes regarding “unidentifiable” remains would likely result in more affiliation determinations (2021). The authors highlight three methods for repatriating NAGPRA collections without cultural affiliation through the analysis of collections that have completed the NAGPRA process. These include human remains that became culturally identifiable; human remains that were connected to land ties; and human remains that were repatriated through approval from the Secretary of the Interior (Amati and DeMuynck 2021).

The Denver Museum of Nature & Science (DMNS) serves as an example for how well “culturally unidentifiable” collections could be repatriated before and after 43 CFR 10.11 (Colwell-Chathaphonh et al. 2011). Work with the unaffiliated remains housed at DMNS began in 2007 (three years before 43 CFR 10.11) to address the museum’s past injustices (Colwell-Chathaphonh et al. 2011). The 67 individuals were analyzed by a bioarchaeologist using non-invasive techniques to determine their age, condition, unique features, sex, and ancestry (Colwell-Chathaphonh et al. 2011). Following this, an in-depth analysis of records to further contextualize the “biological characteristics, historical context, and possible cultural identity,” as well as to identify tribes that once or currently hold land in the region from which the remains were collected (Colwell-Chathaphonh et al. 2011). This resulted in the consultation of 41 tribes from the Rocky Mountain West area using video-conference technology (Colwell-Chathaphonh et al. 2011). Through the consultation process, four tribes (Acoma, Hopi, Zia, and Zuni) were given responsibility over repatriation and reburial (Colwell-Chathaphonh et al. 2011). The four tribes agreed to bury the individuals in the Four Corners area (Colwell-Chathaphonh et al. 2011). Following this, the Rocky Mountain East consultation featuring 43 tribes began (Colwell-Chathaphonh et al. 2011). The Cheyenne and Arapaho took responsibility for reburial, but due to the passing of 43 CFR 10.11, the plan for disposition had to be reconsidered (Colwell-Chathaphonh et al. 2011). Ultimately, the passage of the new rule, altered the plan minimally, changing how many tribes were consulted and forgoing the disposition agreement (Colwell-Chathaphonh et al. 2011).

The passage of 43 CFR 10.11 provided a clearer path for repatriation of culturally unaffiliated collections as well as streamlined the transfer of control (Colwell-Chathaphonh et al. 2011). While 43 CFR 10.11 made possible the return of human remains considered culturally

unaffiliated and heavily required tribal consultation, it failed to address remains from lands not held by tribes or aboriginal peoples or those without geographic information (Colwell-Chathaphonh et al. 2011). Under the new rule, remains considered unaffiliated without a connection to tribal or aboriginal land must stay within the institution's care (Colwell-Chathaphonh et al. 2011). The only way to repatriate remains under this category would be through obtaining approval from the Secretary of the Interior (Colwell-Chathaphonh et al. 2011).

With over 110,000 individuals still categorized as “culturally unidentifiable,” the legislation continues to fall short. A major issue with the categorization of “culturally unidentifiable” is the fear of claiming unaffiliated remains being perceived as “taking others’ relatives” (Colwell-Chathaphonh et al. 2011). The only way to work around this fear is to actively consult with all potentially impacted tribes as demonstrated by the DMNS Rocky Mountain projects. The work done by DMNS encapsulates the intent of 43 CFR 10.11, while also highlighting the time and cost of determining affiliation. Institutions with large collections of unaffiliated remains should use to the DMNS Rocky Mountain project as an example for handling identification work.

The Non-Federally Recognized

NAGPRA outlines protocols for working with federally recognized tribes to repatriate cultural items. The legislation defines a federally recognized tribe as “any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village... which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians” (Chapter 32). NAGPRA does not offer protections for the over 200 non-federally recognized tribes, rather it allows individual institutions to decide

whether to repatriate cultural items affiliated with non-federally recognized tribes (43 CFR 10, O’Neill 2021).

There are several reasons a tribe might not be federally recognized. The Advisory Council on Historic Preservation (ACHP) outlines four examples of non-federally recognized tribes, highlighting the role of their histories within their current recognition status (ACHP 2018). The reasons listed include the desire to remain independent from the federal government, failed attempts at obtaining federal recognition, the re-classification of once federally recognized tribes, and not satisfying government criteria for recognition (ACHP 2018). There are limited paths to becoming federally recognized through the Bureau of Indian Affairs (BIA), and due to acts of termination (an act terminating the relationship between tribal and US governments) some tribes cannot apply for recognition (ACHP 2018).

NAGPRA outlines the inclusion of non-federally recognized tribes in the consultation process, it does not explicitly require this participation or the repatriation of cultural items to those without federal recognition (43 CFR 10.11). The exact wording within the legislation is “a museum or Federal agency may...transfer control of culturally unidentifiable human remains to an Indian group that is not federally-recognized” (“Chapter 32”). The law also states that it should not be taken as a precedent for any other groups, individuals, or foreign governments (Cottrell 2020). Thus, not only are non-federally recognized tribes faced with the issue of the “culturally unidentifiable,” but they also are faced with the challenge of even participating in the NAGPRA process.

An example of the issues associated with being non-federally recognized is presented in the Brothertown Indian Nation’s attempt to have a pipe returned to their tribe. Due to the tribes signing of the Citizenship Act of 1839, the Brothertown government to government relationship

was considered terminated (Cottrell 2020). Consequently, they cannot become federally recognized through the BIA process (Cottrell 2020). The pipe (the Skeesucks pipe) was subject to consultation for two tribes, the Brothertown Indian Nation (non-federally recognized) and the Mohegan Tribe of Connecticut (federally recognized) (Cottrell 2020). Both tribes desired to have the sacred pipe repatriated to them, as they determined the pipe to be related to their tribes (Cottrell 2020). Unlike the Mohegan, the Brothertown do not receive aid for repatriation activities, nor do they receive legal support offered by NAGPRA, meaning they not only complete NAGPRA work as volunteers but also face issues of authority recognition (Cottrell 2020). 43 CFR 10.11 makes it possible to reclaim remains tied to Brothertown but does not provide protections for sacred items and funerary objects (Cottrell 2020).

Having been asked by the Yale Peabody Museum to provide context for the affiliation of the Skeesucks pipe, Cottrell thought they were being considered for repatriation. To have the Skeesucks pipe returned to Brothertown, Courtney Cottrell utilized the framework associated with the repatriation of human remains, utilizing records and other lines of evidence to demonstrate its affiliation with the tribe (Cottrell 2020). Through Cottrell's research, the enrollment of Lester E. Seesucks and his own claims of being Brothertown were identified (Cottrell 2020). Due to the nature of the correspondence with the Peabody Museum, it was believed that the pipe would go to either the Mohegan or the Brothertown. This, however, was not the case. Rather than repatriate the pipe to either tribe, the museum re-classified the pipe under the pretense that there was not enough information to identify it as sacred (Cottrell 2020).

Following the change in designation, Cottrell attempted to further research the pipe, looking into how it ended up at the museum and into museum records associated with the pipe (Cottrell 2020). The museum records indicate that in 2002 (15 years before the consultation

request) the pipe was identified as 1. Belonging to a non-federally recognized tribe and thus not falling under NAGPRA, 2. Not being sacred, and 3. Not an object of cultural patrimony (Cottrell 2020). This new information, paired with the failure to repatriate the pipe caused Cottrell to realize the museum consulted with Brothertown to maintain control over the pipe as non-recognized tribes have no avenue to reclaim sacred objects under NAGPRA (2020). This interaction with the Yale Peabody Museum demonstrates that non-federally recognized tribes not only have to prove affiliation but must also prove their standing as a Native American tribe (Cottrell 2020).

The Power of the Identifiers

The Brothertown case study also illuminates the power associated with cultural determination and object classification. In many determination cases “the voice of the academy overpowers tribal voices” due to the power of identification lying in the hands of archaeologists, museums, and federal agencies (Neller 2019, 16). Chip Colwell furthers this, arguing that NAGPRA reinforces colonial power structures by making museums the “ultimate arbiter on the flows of knowledge used” within NAGPRA determinations (Colwell 2015, 266). Colwell (2015) analyses the role of museums in NAGPRA determinations through a lens of secrecy as defined by Stanton K. Tefft (1980). Secrecy is defined as “an acute form of denial of access to information,” and as the “calculated, concealment of information, activities, or relationships,” which serves as a mechanism of control and power (Colwell 2015, 266). NAGPRA requires both museums and Native Americans to share their knowledge, or secrets, throughout the consultation process (Colwell 2015). However, due to the responsibility to prove affiliation on the part of Native tribes, Indigenous people, rather than the museums subject to the law, are the ones

sharing more sensitive information (Colwell 2015). The preponderance of evidence under NAGPRA also generates power for museums, allowing them to determine how information should be reconciled and which information is legitimate (Colwell 2015). Should a museum reject a claim made under NAGPRA, a tribe has two options: 1. File a lawsuit, or 2. Present more information to the NAGPRA Review Committee. In both cases, the sensitive information presented by tribal members is made public, while the museum keeps their consultation records private (Colwell 2015). Additionally, should the complaint be lodged before the Review Committee and approved, the non-binding nature of the committee's authority does not ensure the return of cultural items from museums (Colwell 2015). Should a claim be accepted, the museum has full control over what information is made public about the items repatriated, allowing them to avoid criticism and public accountability (Colwell 2015).

The treatment of Kennewick Man, known to Indigenous Americans as "The Ancient One," demonstrates the power held by museums with relation to determinations and repatriation. Found in 1996 within an embankment of the Columbia River, Kennewick Man was deemed to be an early Holocene individual (Bruning 2006). Due to the complete nature of his remains and his age, he quickly gained notoriety (Bruning 2006). Archaeologists were hoping to study the remains of Kennewick Man to learn more about the peopling of the Americas (Raja 2016). This was in direct conflict to the desires of the Native American tribes who considered The Ancient One (Kennewick Man) to be a direct ancestor (Raja 2016). Five tribes banded together and demanded the remains be promptly buried without scientific study (Raja 2016). This led archaeologists to question the validity of the Native tribes' claim that the individual was directly related, resulting in a tumultuous legal battle (Raja 2016). Scientists were eventually granted legal approval to study the remains, due to the court ruling the remains were not related to any

living tribe on the basis that the skull did not look like modern Native American people (Preston 2014, Kakaliouras 2019). Thus, in 2005 and 2006, 22 scientists studied Kennewick Man, took CT scans, and created replicas (Preston 2014). Kennewick Man was later determined to be related to existing Native tribes through DNA analysis, which made his repatriation possible (Raja 2016).

The lawsuit and the court ruling highlight the disparity between western science and Native ontology in NAGPRA claims. Despite expressing their connection to The Ancient One, their history and knowledge were ignored in favor of scientific claims (Raja 2016). While NAGPRA outlines the preponderance of evidence including oral histories, folklore, and historical information, the complainants and the judge favored the understanding of western science, demonstrating the power held by scientists in NAGPRA determinations. In 2015, DNA testing revealed Kennewick Man was most closely related to Native American people, supporting tribal knowledge and histories, and resulted in The Ancient One's repatriation and subsequent reburial (Raja 2016).

The No More Stolen Ancestor campaign further illustrates the power of museums to contest claims as well as calls attention to the incomplete nature of NAGPRA. The No More Stolen Ancestors campaign features the Seminole Tribe of Florida's fight with the Smithsonian Natural Museum of History to have 1,496 individuals repatriated (Bidney 2020). The Smithsonian Institution exists outside of NAGPRA legislation but follows the National Museum of the American Indian Act of 1989 ("Frequently Asked Questions"). While the NMAI (1989) mandates the return of cultural items a preponderance of evidence supports their cultural affiliation to a tribe, the Smithsonian firmly claims that the remains within their collection are not affiliated with the Seminole due to a lack of written evidence (Bidney 2020). In their

determinations, the Smithsonian disregards oral histories in favor of academic reports, which suggest a migration of ancestral Creek people into a state devoid of Indigenous communities, thus invalidating Seminole claims to heritage prior to the 18th century (Schulman 2020). This separation of the Seminole from their ancestors makes claiming cultural items under Smithsonian policy impossible (Schulman 2020). Even when the Seminole present archaeological data from recent surveys, the Smithsonian remains unwavering in their determination (Schulman 2020).

Because NAGPRA does not apply to the Smithsonian Institute, it is more difficult to navigate repatriation. As the museum is not subject to the legal protocols and penalties outlined within the 1990 legislation, more of the power over determination lies within the museum's hands. In this way, NAGPRA is incomplete. It fails to be applied nationally and uniformly across all institutions and museums. Angela Neller (2019) and Chip Colwell (2015) highlight the coloniality that exist within the determination power structure. Until Native ontologies and histories are considered on equal footing as western science, the determinations will favor museums and other institutions (Neller 2019). Having the power to determine what is a legitimate source of information and how to reconcile conflicting information provides archaeologists and museums with ultimate power (Colwell 2015).

The Archaeological Perspective

Funding

Archaeologists likewise identify multiple factors that have prevented timely repatriation of remains under NAGPRA. A major challenge faced by archaeologists is funding the cost of curation and collections management (Knoll and Huckell 2019). The responsibility for funding the curation of collections lies with the "individual or entity that initiated the project," meaning

that universities and other institutions must provide the funds to curate a collection either in-house or within a repository (Knoll and Huckell 2019, 19). This obligation to fund the curation of institutionally created collections can create issues when dealing with collections generated in contexts that lacked curation planning (Knoll and Huckell 2019). Curation fees include the cost associated with housing a collection at a repository, the cost of labor associated with preparing a collection, and the cost of materials used to store a collection (Knoll and Huckell 2019).

While the curation of collections is costly, there are a variety of funding options to help defray the costs associated with rehabilitating a collection (Knoll and Huckell 2019). These include grants from either the state or federal government, donations from corporations or private foundations, and support from academic institutions (Knoll and Huckell 2019). There are also ways to reduce the cost during the preparation phase (Knoll and Huckell 2019). Working with volunteers or students is one such method (Knoll and Huckell 2019). Additionally, having the repository handle collection processing can be cheaper than handling it within the institution (Knoll and Huckell 2019).

NAGPRA collections face funding challenges as well. When human remains are found within a collection, greater attention and time must be expended on the collection. When NAGPRA was passed the total estimated cost of compliance was between \$5 million and \$30 million (NAGPR Review Committee 2019). As of 2019, the National NAGPRA Program has received requests for over \$100 million in funding and has awarded over \$50 million (NAGPR Review Committee 2019). This is paired with the “hundreds more millions of dollars” spent by “Federal agencies, Indian Tribes, and museums,” far exceeding the original estimated cost of compliance (NAGPR Review Committee 2019). Institutions with NAGPRA collections are legally required to notify and consult with potentially affected tribes and organizations (“Chapter

32”). There are two grants offered by the National Park Service with relation to NAGPRA (“Grant Opportunities”). The first, “Consultation/Documentation Grants,” can be applied for by museums, tribes, and Native Hawaiian organizations (“Grant Opportunities”). The second, “Repatriation Grants,” is used to cover the costs associated with preparing remains to be repatriated (“Grant Opportunities”).

Legacy Collections and the “Culturally Unidentifiable”

A legacy collection is an archaeological collection that was stored and documented in ways that do not align with current curation standards (MacFarland and Vokes 2016). Due to this poor storage and documentation, legacy collections are not easily researchable (MacFarland and Vokes 2016). Rather, these collections require large amounts of time and money be allotted to their rehabilitation to reach a point in which they can be analyzed (MacFarland and Vokes 2016). The research potential of legacy collections depends heavily on the associated documentation, meaning collections with minimal records hold minimal potential (MacFarland and Vokes 2016). During the rehabilitation of legacy collections, reading through field notes and associated forms is an important first step to understanding the information written on bags and within the bag log (MacFarland and Vokes 2016). Retaining information written on the bags is also important, as it maintains the connection between the artifacts and their provenience (MacFarland and Vokes 2016).

But what happens when there are minimal records and poor preservation associated with NAGPRA collections? The archival analysis of three case studies from RCAL’s NAGPRA collections provides insight into this question, highlighting the increased challenges associated

with legacy collections. The lack of complete records and the poor preservation of the collections further exacerbates issues under NAGPRA, making affiliation harder to determine.

Archival Analysis

The national NAGPRA inventory database includes the following headings: State, Museum/Agency, MNI, AFO, Geographic Origin, and County. The inventory database for the case study sites is presented below (Table 4).

Site	State	Agency	MNI	AFO	Geographic Origin	County
Palmer Taylor	Florida	Rollins College	4	0	Florida	Seminole
Shell Island	Florida	Rollins College	4	0	Florida	Orange
Grant Groves	Florida	Rollins College	4	0	Florida	Volusia, ZUNKNOWN

Table 4: The table shows the NAGPRA inventory database information for the case study sites

These categories of information constitute the bare minimum general information according to which tribes could make a claim. While the three case study collections examined here have this information, not all of them exhibit the basic level of documentation need to answer essential questions regarding precise provenience information or cultural affiliation. The ability of each site to address repatriation questions is presented below.

Skeletal Collections

Palmer Taylor

Inspection of the collection resulted in the positive identification of human remains from five different excavation units, yielding a total MNI of 4. The MNI at Palmer Taylor was calculated based on the presence of overlapping skeletal elements as well as on differences in provenience. The remains in Pit 5, for example, are very likely from a distinct individual as they are 30m away from the other area of the site containing human remains. Lastly, as a result of the

excavation of a single burial feature containing three distinct individuals, the NAGPRA inventory from Palmer Taylor contains the most human remains out of these three case studies. Additionally, many of the remains from this site are fragmentary in nature resulting in a higher NISP than the other case studies.

Shell Island

A product of two distinct excavation projects, the Shell Island collection includes an MNI of 4 and consists of many fragmentary elements. Many of the remains from this collection are heavily concreted. This concretion is caused by the leaching of calcium carbonate minerals from the site's shell matrix, which filters down to the basal deposits of the site, making excavation and the subsequent identification of recovered materials exceedingly difficult. The skeletal collection from Shell Island includes one mostly complete skull, most of a burial, and a multitude of miscellaneous elements recovered from numerous excavation units across multiple areas of the site.

Grant Groves

As already noted, the Grant Groves collection was not excavated by professional archaeologists but was rather assembled over many years by an avocational archaeologist and artifact collector. Human remains were identified and removed from this collection during the initial processing. Some of the artifact trays contained loose skeletal remains and teeth, which were moved to the Bioarchaeology Lab. Despite being the smallest collection of human remains within my study (29 elements), this resulted in the addition of an MNI of 4 to the Rollins College NAGPRA inventory. Some of these remains come from a site labelled Lake Monroe/Enterprise

East (12 elements) while others were pulled from trays (17 elements) with no associated provenience information. As the Grant Groves Collection is still in the process of being cataloged, it is possibly that its inventory will need to be updated in the future.

Site Information	Element	Side	NISP
Enterprise East Below Low Water Level 4/24/86	Phalanges	N/A	3
	Tooth	Incisor	1
Lake Monroe Enterprise East 3-9-86 Below Low Water Level and Surface Collecting	Ulna	Right	1
	Skull	N/A	4
	Tooth	Incisor	1
	Tooth	Molar	1
	Ulna	Left	1
No Provenience	Ulna	Left	1
	Clavicle	Left	1
	Tooth	Molar	3
	Tooth	Incisor	4
	Phalanges	N/A	8
			29

Table 5: Grant Groves NAGPRA Inventory Information, color coded by provenience.

Precise Provenience Information?

Palmer Taylor

Information from the Palmer Taylor site represents the most complete and detailed information associated with the three case study sites. From primary documents (Field notes, student notes, and research design) it is clear where the majority of remains originate from within the site. These notes detail the identification and recovery of a burial during the 1976 excavation led by Rollins College archaeologist, Marilyn Stewart. During the excavation, a burial (acknowledge in notes as Burial 1) was recognized within the talus of the site (Stewart 1976 – Field Notes). This discovery led to the excavation of Pit 9/19 (2-m x 1-m), located at 15N10E of E14N8, from Stratum I to the bottom of the burial (Stewart 1976 – Field Notes). Within Pit 9/19

there are three subdivisions. These include T for Talus, G for General, and F3 for Burial Area (Stewart 1976 – Field Notes). Those labelled talus are not from the interior of the pit (Stewart 1976 – Field Notes). The provenience of the burial was recorded, noting that it was 94cm from West and 134cm from North (Stewart 1976 – Field Notes). Additionally, the heel was 33-43cm deep within the unit (Stewart 1976 – Field Notes). The orientation and condition of the burial during recovery were also noted. The individual was positioned supine (on the back) and flexed (fetal position) oriented with their head facing Northwest (Stewart 1976 – Field Notes). Recovery of remains was conducted systematically, however some remains were inadvertently removed prior to the identification of the burial due to the fragmentary nature of the remains (Stewart 1976 – Field Notes). Skull fragments are described as extending yards away from the recognized burial (Stewart 1976 – Field Notes). Some of these were graphed and photographed (Stewart 1976 – Field Notes).

The notes also identify artifacts associated with the excavation and burial. A projectile point is described as being removed 10cm above the burial. Associated with the burial were collections of vertebrate fauna and pottery as well as an Alachua point fragment (Stewart 1976 – Field Notes). The notes also note the close association of check-stamped pottery to skull fragments that extend beyond the burial (Stewart 1976 – Field Notes). In addition to the recovery of the associated materials, a soil sample was taken from Strata A-D next to the burial pit (Stewart 1976 – Field Notes).

Shell Island

Information from Shell Island is somewhat lacking as a due to poor documentation and failure to recognize remains during excavation. In 1973, a 16-ft x 16-ft (24 sq meters) was dug in

the apex of the site. From this excavation in 1973, human remains were identified within Pit A Quad 1. While the excavator makes note of the discovery, they do not record the depth associated with the burial. From this same excavation, skeletal remains have since been identified in Pits C (Quads 1 and 4) and D (Quads 3 and 4). While there is no exact location given for these remains, it is certain they were obtained from Shell Island. For remains removed by current students, depth information is recorded, however the exact depth of the burial in Pit A Quad 1 remains unclear. Additionally, the exact depths from which recently identified elements were removed were not recorded during excavation. In 1974 Rollins excavated the site again, digging three units. This resulted in the recovery of more remain that were not recognized during excavation and were later removed during collection processing.

As the 1973 units were excavated in 6-inch (about 15cm) arbitrary levels, identifying the cultural materials associated with the remains is difficult. No note of associated funerary objects nor the identification of remains is made outside of the comment about Pit A Quad 1. Due to poor record keeping and the failure on excavators to recognize the presence of burials, the only associated information with these remains is their unit and depth information.

Grant Groves

The Grant Groves collection was generated through the collaboration of Dr. Marylin Stewart and an avocational archaeologist, Grant Groves. The collection generated through this relationship was donated to Rollins College and left within its original packaging until Fall 2021. During the initial processing of the collection to determine the proveniences present and the scope of the collection, human remains were identified. Of the remains identified, this collection only provides site information for 12 of the 29 elements. The other 17 were found among the “no

provenience” bags and trays. There is no additional information on the location of the excavations, nor the depth recovered.

Age and Cultural Affiliation?

Palmer Taylor

This site features the most information about burial identification and recovery out of the three case study sites. Alongside notes on identification and recovery are unit and depth information. While depth information and associated materials should make determining cultural affiliation relatively simple, problems arise when the collection and notes are analyzed in greater depth.

At Palmer Taylor human remains were found only in the central apex area, which was greatly disturbed by a bulldozing pit. This disturbance not only scattered parts of the burial identified in Pit 9/19, but mixed associated materials. During the collection of remains, a variety of artifact types are identified as being in close association to the remains recovered. These artifacts have vastly different dates associated with them. The most contrasting being the Alachua point (3000-1000 BCE) and the check stamped pottery (750-1500 CE). Not only is the information contrasting, but it cannot be clarified due to the poor storage and record keeping associated with the collection.

The Palmer Taylor collection is a legacy collection as it was stored in substandard conditions for decades and was not fully cataloged until 2018. During this period, materials associated with the collection were removed from their original contexts without their provenience information recorded. As a result of this decontextualization of artifacts and the separation of remains from their original contexts, identifying the artifacts once associated is

nearly impossible. Verifying the claims made by Dr. Marylin Stewart over what materials were associated and thus the dates of the material objects is now impossible, meaning that cultural determination must be made from the notes and existing depth information, which is rife with contradictions. While the age cannot be narrowly determined, the remains are definitively from this site, which has clear information associated with its occupation. Catalog data indicate that Palmer Taylor features materials from the St. Johns I, St Johns II, and Orange periods. The site also appears to have an earlier pre-ceramic component based on the apparent phasing out of pottery and the presence of only vertebrate fauna in the levels below the decreases in pottery. From this information, the material culture dates the site as beginning prior to 2600 BCE and continuing to be used until the St Johns II period (750-1500 CE). These periods indicate thousands of years of Indigenous occupation, and make successfully narrowing the cultural affiliation based on material culture or time period difficult.

Shell Island

Like the Palmer Taylor collection, Shell Island is a legacy collection that was recently rehabilitated. The defining difference between these two collections is the number of associated records across all aspects of excavation. The documentation of the Shell Island collection varies drastically by year. The largest excavation conducted in 1973 is summarized by one, hand-written page of notes, while later excavations include student notes, field notes, and project summaries. The documentation issues were compounded by the deterioration of the collection, which sat on shelves in cardboard boxes and sandwich bags for almost 50 years. During this time, large portions of the collection were decontextualized. Many artifacts were labelled with only the site, so when they were pulled for use in class settings, they could not be re-integrated.

Of the items decontextualized, many are characteristic artifacts used to determine the material culture associated with the site. Understanding the cultural history of the site required a small-scale excavation to be conducted. From the new and existing materials, five cultural periods were identified (Seminole, St Johns II, St, Johns I, Orange, and Mt. Taylor). This chronology was further contextualized using radiocarbon assays, revealing use of the site from 6000 BP until the last few centuries preceding European contact.

Barriers for determining cultural affiliation for the remains at Shell Island include poor record keeping, inexperienced excavators, and substandard collections management. Poor record keeping not only makes identifying the precise provenience and context for remains difficult, but also obfuscated the location of the excavations in general. Essentially, not only were the units recorded unclearly, but the remains within were not marked at all. Additionally, the inexperienced excavators (mostly students with no prior excavation experience) failed to recognize and record the precise provenience of remains within the units. This means that when remains were identified during collections processing, the only information associated with them is unit and depth information. As there are no associated funerary objects, identifying the associated culture with absolute certainty is impossible. This is further complicated by the substandard management of collections that resulted in the decontextualization of characteristic artifacts. Knowing which depths characteristic artifacts originate from allows archaeologists to attribute the proper culture period to that depth. It is unclear whether any of the decontextualized artifacts were once associated with the remains, meaning they cannot be used with conjunction to the depth information to determine the age or cultural affiliation of the remains currently housed in the RCAL.

When comparing the depths from which remains were recovered to the depths associated with material culture, the remains can potentially be narrowed down to the St. Johns I period (60-150cm) and the Orange period (150-200cm). A date from a soapstone vessel recovered from 91-107cmbd provides a date of 809-779 BCE, which falls within the St. Johns I range. A charcoal sample taken in 2021 from 70-80cmbd provides a date of 483-603 CE which also falls within the St. Johns I period. This seems to indicate that remains from at least 70-107 would fall within the St. Johns I category. However, lacking precise depth and associated object information leaves this determination uncertain. As there are no radiocarbon dates for the Orange period, the only narrowing factor is the presence of remains in the same levels as characteristic Orange period artifacts.

Grant Groves

The Grant Groves collection epitomizes the issues associated with inexperienced collectors and legacy collections. Having been donated sometimes in the 1980s, the collection sat untouched for decades. The plastic and paper bags underwent severe deterioration as a result of improper storage which allowed pests to eat through paper bags and tags. This deterioration caused important site information to be lost. To retain as much information as possible, the writing on each bag and sticky note was recorded. However, barriers to recording information included, difficult to read handwriting, lack of notes associated, bug eaten materials, and brittle and falling apart plastic bags. During this process, notes indicating the presence of human remains were marked, and the bags sorted through. After identifying human remains in a bag, all bags and trays were analyzed. This resulted in the positive identification of 29 human skeletal elements. Unfortunately, these elements contain minimal information. Despite having site

information for 12 of them, the lack of associated notes makes determining their precise origin and context impossible. Grant Groves collected remains from Lake Monroe Enterprise East (8VO2601) in 1986. An article published by Barbara Purdy in 1994, indicates that Grant Groves collected materials from the north shore of the site (Purdy 1994). In 1987, Groves brought Purdy to where he collected materials, and she conducted additional excavations in 1989, 1992, and 1993 (Purdy 1994). Purdy notes the presence of human remains in their 1989 excavation (1994). Using radiocarbon data, environmental data, and cultural information, the author presents a chronology featuring mostly Orange and Mount Taylor periods (Purdy 1994). Knowing that Grant Grove's collection of remains comes from submerged deposits at this site, it is likely the remains date to either the Orange or Mount Taylor periods (Purdy 1994). It is also possible that the elements housed within the Rollins College Archaeology Lab belong to the individuals excavated during the 1989 excavation or are from the same culture. While it is possible that the remains from the Lake Monroe site are from the above stated periods, without more information associated with the collection, it cannot be determined with absolute certainty. The 17 elements without site information cannot be culturally identified, nor can they have an age attributed. This is a result of their creation by an avocational archaeologist whose primary goal appears to be collecting for entertainment rather than for preservation.

Repatriation Potential

Palmer Taylor and Shell Island

Due to the recovery of human remains from Indigenous sites in Central Florida, the suggestion for repatriation is to the Seminole Tribe of Florida. This decision is based not only on the clear identification of these remains as Indigenous, but on the tribal knowledge published by the Seminole tribe. According to Seminole ontology, the Seminole are an amalgamation of

Indigenous peoples from Florida, Georgia, Alabama, South Carolina, Tennessee, and Mississippi who have inhabited the land for at least 12,000 years (“Culture: Frequently Asked Questions”). The term Seminole was applied to Indigenous peoples living in Florida by English speaking colonists (“Culture: Frequently Asked Questions”). The Seminole Tribe today also recognizes a connection to the original inhabitants of the state of Florida, which is why the repatriation suggestion is returning the remains, regardless of their precise age, to the Seminole Tribe of Florida.

Grant Groves

As Grant Groves was an avocation archaeologist that lived and collected in Florida, the likeliest repatriation scenario would be for the remains that exist within his collection to also be returned to the Seminole Tribe of Florida. While not all the elements have site information, his partnership with Dr. Marilyn Stewart and the wide spread of Florida sites within his collection suggests that the remains come from the state of Florida. As previously stated, Seminole ontology indicated connection to the original inhabitants of the state, which is why repatriation to this tribe is suggested.

Conclusion

Ultimately, NAGPRA has generated a large amount of progress in the repatriation of ancestors and sacred objects. Forcing federally funded institutions to grapple with colonialist histories, inventory items of cultural patrimony and cultural affiliation, and to consult actively with Native tribes has not only resulted in the return of thousands of individuals and objects but has altered the field in perpetuity. While the legislation is a large step forward in righting past

injustices, barriers still exist that impede the repatriation process. These can be broken down by stakeholder. Indigenous authors focus on large gaps within the legislation that make recovering objects and remains considered “culturally unidentifiable” difficult, the exclusion of non-federally recognized tribes, and the power structures present within the determination of cultural affiliation. Archaeologists focus more on the issues associated with compliance such as funding and unclear provenience. The three case studies demonstrate how issues associated with collections management further complicate the determining affiliation. While it may not be possible to determine the precise affiliation of individuals within our collections, repatriation is nevertheless possible and should be carried out. The following chapter will present suggestions for small institutions like Rollins College currently working through the NAGPRA process.

Chapter 5: Conclusion

Introduction

This chapter highlights the main takeaways from this project and outlines my suggestions for other small institutions working through the NAGPRA process. Having worked with our collections of Indigenous human skeletal remains from the initial identification to the inventory phases, I have gained a deep understanding of the difficulties associated with the entire process of achieving NAGPRA compliance. This first-hand experience is supplemented by knowledge of an extensive literature generated by both Indigenous authors and archaeologists.

Summary and Discussion

NAGPRA was passed to address centuries of injustices and abuse perpetrated by practitioners of Western science. Having stolen, studied, and displayed the remains of Indigenous peoples, archaeologists had directly contributed to the colonization of Native peoples. 43CFR10 was designed to return those remains to affiliated tribes, by not only forcing museums and researchers to inventory their collections of remains and other cultural items, but by giving Native tribes a pathway to reclaim their stolen ancestors and items legally.

NAGPRA has successfully repatriated thousands of remains and over a million associated objects. However, while NAGPRA has been a step forward towards decolonizing the field, its loose definitions, incomplete coverage, and power imbalances reduce its effectiveness. Indigenous scholars point to the inability to reclaim those left “culturally unidentified,” the exclusion of non-federally recognized tribes, and the power held by institutions as the major limiting factors causing the slow repatriation of thousands of ancestors. Archaeologists on the other hand highlight the exorbitant costs to inventory and repatriate collections as well as the

issues associated with determining affiliation as reasons for the slow return. The issues presented by both stakeholders are real and place serious constraints on the ability of the law to achieve its full potential. Issues of funding and poor record keeping contribute to the classification of cultural items as “culturally unidentifiable”. A lack of money and information can cause the institution to spend less time searching for affiliation information, resulting in more remains being classified as “culturally unidentifiable”. Consulting actively with affected stakeholders can alleviate some of the funding and information issues, as the stakeholders are knowledgeable about their lands and ancestral items. The barriers highlighted by both groups demonstrate that NAGPRA, while an important first attempt to alter the power imbalances between researchers and the researched, needs to be reevaluated and updated.

The Rollins College case studies examined in this thesis illustrate the importance of information and records. Despite the differences in the origins and histories of these collections, all three instantiate problems that are typical of legacy collections (collections that were stored and documented in substandard conditions). When revitalizing legacy collections, major attention is paid to the associated records to understand the original excavation and recovery of the materials under consideration. The three case studies fall along a spectrum in relation to the amount of archival information available, with Palmer Taylor having the most and Grant Groves having the least. When the recovery is documented well, it is easier to establish the relationship between skeletal remains, other materials within the collection, and ultimately established cultural histories. However, when information on recovery and provenience are lacking, the barriers identified by archaeologists and Indigenous authors are compounded. Revitalizing legacy collections is also time-consuming and expensive, so when it is combined with NAGPRA processes the combination costs exponentially more time and money.

While these barriers can make determining the affiliation of remains more difficult or slow the inventory process, it should not prevent repatriation. The following suggestions represent the major takeaways from my experience and research:

Suggestion 1: Gather, Read, and Summarize Associated Records

This suggestion is born from the importance of associated information to determining cultural affiliation based on the terms specified within the NAGPRA legislation. By gathering, reading, and summarizing all associated records, the archaeologist ensures that they have the deepest understanding possible for the given collection. Notes of importance include site location, precise provenience information, recovery methods, and culture chronologies. Recovery methods includes both those used during the general excavation (e.g., level and screening methods) and those used when remains were positively identified and exhumed. Summarizing or recording these important pieces of information not only ensures that the archaeologist does not have to repeatedly search the original notes, but also condenses all the necessary information into a cohesive document that can be used within the determination process.

Suggestion 2: During Collections Processing, Err on the Side of Caution

While it may be tempting to identify remains during initial collections processing with absolute certainty, this will greatly reduce the speed at which the collection can be cataloged and curated. For this reason, the suggestion is to err on the side of caution and remove any skeletal elements that may potentially be human and thus subject to regulation under NAGPRA. Removing more elements in the initial sorting simply means re-integrating those that are not

human back into the collection, while removing fewer can create issues later, increasing the likelihood that additional human remains are identified later, further complicating and slowing the repatriation process.

Suggestion 3: Consult Actively with All Affected Stakeholders

Consulting actively with all affected stakeholders throughout the entire NAGPRA process not only returns agency to Native tribes but can also aid in the identification process. The History Colorado example discussed in Chapter 4 exemplifies this. Through their partnership with tribal members, History Colorado curators were able to more accurately assess which artifacts fell under the purview of NAGPRA (Goff 2019). Consulting actively with all affected stakeholders can also help to identify which tribe should take lead on a project and an appropriate land for reburial as seen in the Denver Museum of Nature and Science (Colwell-Chathaphonh et al. 2011). As opening lines of communication with tribes early can be mutually beneficial, small institutions should consult actively with them to produce not only a more meaningful working relationship, but to aid in complete and more accurate NAGPRA inventory and repatriation processes. More specifically, consulting with tribes prior to beginning a field project with the potential to encounter human remains can help the researcher determine where to dig and to establish a plan should human remains be encountered.

Suggestion 4: Use “Culturally Unidentifiable” as Rarely as Possible

Currently, there are an estimated 110,272 individuals and 745,981 funerary objects in U.S. repositories that are classified as “culturally unidentifiable” according to the law. In 2010, 43CFR10.11 was passed to provide a pathway to claim these “culturally unidentifiable” remains

and objects. This new rule, however, only applies to objects directly associated with remains, making the recovery of unassociated and unaffiliated sacred objects impossible. Additionally, while the law addressed the potential repatriation of individuals with geographic information, it does not cover those without it. For these reasons, the use of the “culturally unidentifiable” category should be avoided whenever possible and should only be used when there is no information on recovery or region. While there is an understandable desire to know the specific tribe or culture an individual is affiliated with, the wishes of both the deceased and affected stakeholders are important. In determining affiliation several lines of evidence are considered including historical records, oral tradition, geographic information, kinship, and archaeological data (“Chapter 32”). These many types of evidence should be given equal weight during this process to better understand the repatriation potential of cultural items more completely. Even when the affiliation cannot be determined with absolute certainty, institutions should deeply consider whether repatriation is still possible. Looking at the region remains come from and the ontologies of the tribes in the area can provide insight into where remains can be repatriated. The three case studies from this thesis highlight the potential to repatriate despite not having complete certainty over the affiliation.

Suggestion 5: Treat Repatriation as a Goal not Merely an Obligation

When repatriation is treated like a primary goal of archaeological research and not merely an obligation after the fact, the individuals and objects within NAGPRA collections are handled with more respect and care. Treating repatriation as a goal rather than an obligation also changes the intent behind working with these collections. Rather than focusing on the bare minimum requirements to adhere to the law, treating repatriation as a goal requires greater attention to the

collections, ensuring their proper storage and inventory until repatriation can be finalized. Additionally, this allows the prioritization of repatriation bringing it to the forethought rather than working through it as an inconvenient legal obligation. In this sense, treating it as a goal results in more ethical care of remains and objects, focusing on the desires of both the deceased and affected tribes. This treatment is also more progressive and follows the spirit of the law rather than the letter, which can aid in the decolonization of the field.

Suggestion 6: Be Proactive

This suggestion emphasizes the importance of planning ahead, or more specifically, considering and planning for the potential of uncovering remains during an excavation or other field project. Being proactive means having a set plan before entering the field and having a strong understanding of which places to avoid when conducting field work. This plan should not only detail the steps to be taken should human remains be discovered but should also indicate which stakeholders should be notified in this instance. This suggestion pairs with Suggestion 3, as actively consulting affected stakeholders before a project even begins is another tenant of being proactive. This consultation is especially important for sites that have the potential for remains or for being considered sacred. Being proactive requires one to take others seriously, working with affected stakeholders to determine where work should be conducted and areas to be avoided. This suggestion should lessen the potential for NAGPRA work as the researcher should have a deep understanding of archaeological and historical data to inform their field decisions.

Conclusion

Prior to the passage of NAGPRA, Indigenous remains were indiscriminately collected, studied, and displayed by archaeologists, museums, and private collectors. These collections accounted for the desecration of anywhere between one hundred thousand and two million individuals (Trope and Echo-Hawk 2000). NAGPRA was passed to address these collections, forcing institutions that receive federal funding to inventory all cultural items and notify affected tribes. While NAGPRA has facilitated the return of thousands of ancestors and objects, the legislation still falls short. Gaps within the legislation allow museums and other institutions to avoid repatriation. The gaps include the category of the “culturally unidentifiable” and the exclusion of non-federally recognized tribes within the NAGPRA process. Additionally, the legislation is not applied to the Smithsonian Institute which houses a large number of remains and sacred objects, currently being fought for by the Seminole Tribe of Florida.

If we truly wish to adhere to the spirit of the law and to progress the repatriation of cultural items, we need to learn from the mistakes of the past. Continuing to hold onto remains and to reject claims made by Indigenous tribes and people is another form of colonization. We need to prioritize Indigenous stakeholders if we wish to right the centuries of injustices perpetrated against them. In some cases, collections consist of the bodies of brutally murdered individuals (including children) so continuing to argue that these collections have scientific merit and belong on display is reprehensible. Archaeologists and museums should strive to revitalize relationships with Indigenous peoples who are purveyors of the past rather than alienating them through neocolonial archaeological practices.

The suggestions outlined in this chapter highlight small changes that can be made at the institutional level. Not only should institutions strive to be more transparent and active in their

NAGPRA consultation and inventory, but they should endeavor to keep the desires of affected communities in mind during all aspects of research. We should work to bring ancestors home rather than to continue the marginalization and colonization of the peoples who were here long before. It is my hope that other small institutions can make use of this work, not only looking to it for inspiration but as guidance for how to navigate the NAGPRA process at their own institution.

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