

Case studies for the

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Prepared by
Erin Hudson, Dru McGill, and Anna Browne Ribeiro
with contributions from anonymous contributors

Note: Although some of these case studies were inspired by actual events, the scenarios are intended to be educational and hypothetical. Ethics Bowl participants should only consider the information provided in the scenarios below.

Case 1

Steven Gren, a new state archaeologist, is a stickler for rules and ethics. Gren strongly believes that the only way for archaeology to overcome our “dirty little secret” of not publishing the results of our excavations is to make it so that archaeologists have no other choice. As state archaeologist, Gren has the final say in who is granted a permit to perform archaeological excavations, and who is not, on state lands.

In a strongly worded letter to all the archaeologists in his state, Gren writes, “in addition to the normal requirements of field and supervisory experience, an advanced degree, and demonstrated ability to complete a research project, I am initiating a new rule: archaeologists will not be granted a permit to perform new excavations on state lands if the results of previous excavations have not been analyzed and published. The requirements of analysis and publication are not met by simply publishing a list of artifacts in a report or on a website. Analysis and publication should include a contextualization of the data in culture-historical and theoretical scholarship, with an aim towards generally improving archaeology in this state.” In the same letter, Gren announces the creation of a new committee whose responsibilities include evaluating all curation facilities that hold archaeological data in regards to this new rule. The committee will publish the results of its evaluations on a publicly viewable website.

The reaction from CRM firms and academic departments has not been positive, to say the least. One archaeologist at Centerville College wrote back, saying, “In our collections, we have more than 3.5 million artifacts excavated before 1940. How am I supposed to publish all these projects with no money to hire new help? How can you deny us our right to hold a summer field-school at a State Historic Site?” A CRM firm director responded, “We often have three, four, five, or more active projects at various stages at the same time. Why am I now being told to finish and publish one project before starting another? This is not how archaeology is done!”

For the time being, Gren is sticking to the word of his letter. Thus far, 13 out of 16 archaeological permit requests for new excavations on state land have been denied. Complaints have begun piling up against Gren. But, the reaction is not all negative. A few other state archaeologists have taken notice of Gren’s plan and are considering similar measures in their states. A task force has been formed by the RPA of sympathetic and frustrated archaeologists to respond to Gren’s new policies as well as to seriously consider the ethical dilemmas Gren is attempting to address in his letter.

Case 2

Sitting in his office one day, Tom Pale (archaeology professor) received a call from the director of a new television show that purports to solve the “mysteries” of ancient civilizations. The director told Tom that one of the show's episodes was going to focus on the ancient Maya, a group Tom has spent the better part of his life studying, and that they would like to invite Tom to be a paid consultant to share his knowledge of ancient Maya life. At first, Tom was hesitant to participate because he knew “solving mysteries” was not exactly the image of archaeology that he hoped to present to the public. But, assuaged by the director's apparent enthusiasm about his published work, and considering that he might be able to help portray as accurate of a depiction of ancient Maya life as possible, Tom agreed to the job.

The consultation process went well, Tom thought. He spent several hours on the phone with a studio assistant who asked him endless questions about the ancient Maya. He was interviewed, on camera, about his previous work. Tom was even asked to approve certain reconstruction elements, such as the style of houses, their clustering in neighborhood groups, and so forth.

Generally pleased with himself, Tom invited his friends over to watch the premier of the show. He sat proudly as the world of the ancient Maya slowly came to life in computer generated special affects: neighborhood groups of small thatch houses, Maya foods, dress, and even language. Thirty minutes into the show, Tom was happy with the results and was looking forward to using the video in his future classes. And then, Tom became nervous. The show suddenly moved from food and dress to the weapons of the ancient Maya and the depictions of violence on ancient Maya pottery vessels. Maya killing each other. Maya “war parties.” And the question, “Were the Maya so violent that they killed off their entire race?”

Tom's first reaction was anger. He phoned the studio company immediately but there was no response. He hoped no one had actually watched the episode, but the next day the emails started arriving from archaeologist colleagues (“what could you have been thinking?”) and Maya people (“what gives you the right?”). Tom even heard through the grapevine that someone was planning a session at the next national meeting to discuss the implications of the episode and Tom's contributions.

Tom cannot believe what happened. He has tried to make amends by writing articles in *Archaeology Magazine*, but feels there is no way he can reach the same number of people as the television show. Finally, Tom comes to the personal resolution that he did nothing wrong. “What more can I do than accurately describe my knowledge of the past. I am not responsible for the inappropriate actions of others,” he thinks. Sitting in his office, trying to forget about this whole ordeal, Tom receives another phone call. It's a Hollywood movie producer and he is interested in talking to Tom about possibly collaborating on a new project...

Case 3

While working in a 2 x 2 meter unit during a Phase 3 mitigation project on state and federal lands, Jack and Jill, shovel-bums extraordinaire, were approached by Bob Mira, a local newspaper reporter. Bob was interested in writing a little piece about the archaeological excavations at the site of the new bridge and asked the pair basic questions about what they were doing. Jack and Jill explained to Bob that archaeologists had surveyed this area and determined that a 19th century house had previously stood where Bob was standing. They showed Bob a few cut nails, some pottery, and a lot of old bricks. Bob seemed unimpressed.

Bob asked “Who said you have to excavate this old house?” Jack and Jill responded that state and federal law both say that before a new construction project begins archaeologists have to survey for significant archaeological findings. Bob asked again, “And this is significant?” The pair responded, “Oh, yes.” Bob finally commented, “Well, no offense to you, but I’m not so sure.” Bob then began asking the two questions about how much time they had spent in the various phases of archaeology on this site, how much they were paid, and more. Feeling a bit uncomfortable about the situation, Jack and Jill requested that Bob speak with their project’s PI, Frank.

Two days later, Bob published an article in the local newspaper outlining the extensive time and money costs of the archaeological research. It was obvious that Bob did not approve of the project. Worse, perhaps, were the letters to the editor the next day from people who shared Bob’s opinions. “Why are they wasting their time with one old house when there are hundreds in this county still standing!” one angry citizen wrote. “Why was the public never consulted about the significance of this work?” another added. The letters were not all bad. One member of the public wrote “I think this archaeological work is very interesting! We should work to protect and learn about our local history.”

When the field-crew started out to work the next day, they discovered a crowd waiting for them at the dig site—some just curious, others who appeared upset. Concerned about the safety of his crew, Frank decided to call-off work for the day. Back at the hotel, the members of the field-crew were having quite a debate. “Why are we doing this if no one wants us to?” asked Jill. Jack responded that the SAA Principles of Ethics say that all archaeologists should “work for the long-term conservation and protection of the archaeological record” and use their knowledge to “promote public understanding and support” for the conservation of the archaeological record. “Yes,” Jill responded, “but it also says that we should be caretakers of the archaeological record ‘for the benefit of all people.’ Have you ever heard of a CRM project that asked people in the area if they considered the work important or a ‘benefit’ before they started?”

Listening to the debate, Frank acknowledges that their crew certainly seems to be in an ethical dilemma with this project. Thinking about upcoming deadlines and his responsibility to uphold his contract, Frank is concerned about what to do next.

Case 4

The Anthropology department at Fairview University is in the middle of a very important ethical debate. Two weeks ago, the chair of the department received an email from the President of the university expressing concern about human remains being curated in the Anthropology department. The President's email outlines a letter she had received from a local Native American group. The group had recently reviewed a NAGPRA compliance report published by the Anthropology department from 1995. In the report, the authors revealed that the University curates over 500 sets of human remains and hundreds of associated funerary objects, all of which were collected in the United States, and some of which were collected as much as 100 years ago. Of the 500 plus human remains, 90% were listed as Culturally Unidentifiable Human Remains (CUHR).

The Native American group states that they were surprised to learn that many of the CUHR (at least 50) were donated from members of the public and/or had little or no contextual information associated with them. They mention that they have read and learned that many archaeologists feel it is difficult or impossible to make significant scientific interpretations from unprovenienced artifacts. "Thus," the letter reads, "we do not understand the wishes of the department to keep these ancestors if they are of little or no scientific value." The letter from the Native American group ends with a request to repatriate the unprovenienced CUHR to the group so that they may reburial them.

The President of Fairview University was also surprised to learn about these CUHR in the university's collections. She asks the Anthropology department chair to convene the faculty so that they may make a decision. "Either the unprovenienced CUHR will be repatriated" says the President, "or you need to come up with persuasive ethical and legal reasons to keep them."

The chair does a bit of research and discovers that, indeed, many of the CUHR are without provenience information and that no new research has been done on these CUHR since the NAGPRA report. With this information in hand, the chair calls a meeting of the entire Anthropology department in order to respond to the President's request.

Case 5

In the state of Texas, it is legal for members of the public to excavate for the purpose of collecting ancient artifacts on private land. Reportedly, hundreds of “pay dig” sites exist in the state, as evidenced by the many internet sites trying to convince fellow “hunters” to pay anywhere from \$100-\$1,000 per day to collect “once-in-a-lifetime” artifacts. The owners of these “pay dig” sites provide backhoes, screens, gloves, and even lunch.

Sam Wise, a self-proclaimed amateur archaeologist, owns and operates several “pay dig” sites in Texas. Wise recently purchased a new property that he claims contains an important archaeological site with continuous occupation from the Paleoindian period to the Historic period. In the past, Wise has been heavily criticized by archaeologists since his “digs” result in the destruction of archeological sites and commercialization of the archaeological record.

Wise and his new property have recently made headlines in the news due to the discovery of several Paleoindian points and a possibly related camp-site at the location. Michael Molnar, a local archaeologist whose work has focused on the Paleoindian time-period, read about these new discoveries and made the decision to call Wise to talk about the finds. Molnar mentioned to Wise that an archaeological investigation of the site could reveal new and important information concerning some of the first inhabitants of the region. Molnar argued that archaeological research and documentation could do more than any “hunter’s” work to put Wise’s site on the map of important archaeological sites in the country. Molnar concluded by offering to bring in an archaeological team to investigate the new site.

Wise thought about Molnar’s offer and, eventually, agreed. But, Wise had two caveats: Wise wanted first “right of refusal” over all artifacts discovered on his property, and control of publicity about “his” site. In his response to Molnar, Wise wrote, “Y’all can even keep all those broken up pieces of pottery if you want to. I’m mostly interested in a few of the high-quality goods: complete points, whole pots, or any rare find.” Wise insisted that proper time will be given to Molnar for his analyses of these objects, “within reason.”

Michael asks some colleagues in the CRM world what they think of Wise’s offer. Some throw up their hands in disgust and argue that if Michael accepted the offer, “the RPA and the State Archaeologist would be breathing down your neck in no time!” Others are like Michael, curious of the possibilities and worried about the loss of knowledge if “arrowhead hunters” are allowed to destroy the site. Michael decides to call in his field crew to discuss the matter.

Case 6

Several different ethnic groups currently live in the country of Rowan. Many of these ethnic groups have lived in the country for hundreds of years, through colonial occupation and into the current period of independence. The contemporary Burcaw people, one ethnic population in Rowan, believe that they are the descendents of the great ancient Burcaw civilizations that once spread across Rowan and the countries surrounding it. Today, due in part to a troublesome colonial history, the Burcaw people are poor and live on small parcels of substandard land. The Burcaw are in a battle with the Rowan government over the right to claim independence from the national government and to make claims to territories they designate as “ancestral” lands which are currently owned by members of other ethnic populations.

This land and sovereignty debate has been ongoing for several years, working its way through various levels of courts in Rowan. During the debates, the national government has argued that the Burcaw are not originally from the territories of Rowan and are, instead, recent immigrants from other countries. This, the government argues, does not entitle them to special rights over lands. The Burcaw have, in opposition, argued that they have continuously occupied their ancestral lands for thousands of years, thus entitling them to claim the land. Recent historical records are of no help in resolving the dispute.

Sue Smith is an American archaeologist who has worked in Rowan for her entire career. She has collaborated with local Burcaw people in many of her projects and has always followed the research guidelines set forth by the Rowan government. Sue’s most recent project is integrally related to the legal battle between the Burcaw and the Rowan government. She has been tracing the migrations of the Burcaw people and, specifically, investigating the contentious “Contact” period when ancient Burcaw people first encountered (and subsequently fled from) European travelers.

Sue’s research is on-going but preliminary (and yet unpublished) discoveries have been made that could influence the legal battle. Arriving in Rowan to begin another field-season, Sue has been informed by the government that she is being asked to testify on behalf of the government and, thus, against the Burcaw. The government feels her research is the key to denying the land rights claim of the Burcaw. Sue feels very uncomfortable about this situation, especially when she considers that, while her research findings are always evolving and open for review, legal rulings are much more permanent. She wonders: if she testifies in favor of the Burcaw, will she ever receive another permit to do archaeological research in Rowan? Or, if she testifies against the Burcaw, how will this affect her collaborative research endeavors and the livelihoods of the Burcaw people? What are her responsibilities as an archaeologist?

The government has given her two weeks to prepare her testimony. Sue realizes that she has a number of professional and ethical obligations that appear to be at odds with each other, and begins to wonder if she should testify at all.

Case 7

Shannon is an undergraduate student in the Arts and Sciences College at Southern Institute, a school known for its overseas archaeological investigations. As an avid student of archaeology, Shannon has participated in excavations near her hometown for the past two summers, and is now eager to experience archaeology in a new environment. She is thrilled when she receives word that she has been accepted into Professor Bixby's prestigious field school at Mu'uria, a humid tropical island in the Atlantic Ocean.

Initially, Shannon is overcome by the sights, smells, and above all the incredible archaeology of Mu'uria. The passing weeks reveal deep occupations, complex architecture, and innumerable caches and tombs full of novel artifacts in pristine condition. The excitement climaxes as Shannon and her team come across a grave site within a structure that has been built into an overhanging outcrop. As they progress, however, Shannon begins to worry that the overhang beneath which she is working might collapse. She expresses this concern to the project director, who simply shrugs off her remark, adding that if she is not up for excavating the tomb, someone else will be. "Besides, what will we do for the rest of the season if we halt these excavations?"

Back at the campsite, she overhears Maria, a veteran graduate student, commenting in an offhand manner that the excavation she is directing would never be legal in the United States. "We're down nearly four meters, and we're just getting to the good stuff! OSHA would never approve of this excavation!" she chuckles! Jacob, a first-year graduate student who is working alongside Shannon, murmurs something about shoring and safety, adding that, if they are not equipped to excavate in the present conditions, they should focus on survey and mapping for the remainder of the season, or excavate some of the smaller, low-lying structures. "Yes, Jacob, that is a fine idea," snorts Maria, "but that won't get anyone on the cover of National Geographic, will it?"

The next morning, as Shannon approaches her excavation trench, Jacob hands her a hard-hat. It is covered in cobwebs, but in good condition. Shannon is grateful for the concern he demonstrates, but his gesture has only made her feel more insecure. She knows that excavating this context is a great opportunity for her, in terms of experience and in terms of her positioning within the larger Mu'uria project. At the same time, she feels that the site director and some of the graduate students are being lax about safety. Then again, they are all more experienced than she is—maybe they really do know better. She feels she has to decide between paving a way to a career, and the physical safety of the crew.

Case 8

Farnsworth has been working for the State Nature and Historic Preservation Office, in the Western Coastal Division, for nearly three years. Though he is a native of the East Coast, he has quickly become familiar with the archaeology of the Western Peripheral islands. He has also learned about the complex and often problematic relations that have characterized interactions between archaeologists and the indigenous population of the islands.

Recently, Farnsworth was asked to survey an area that has been set aside for the expansion of a local hospital, which impinges on land associated historically with a colonial-period farmhouse. Farnsworth has worked in the vicinity of this remote hospital on a number of projects, and is familiar with the farmhouse and associated history. As Farnsworth begins his work, he sees no evidence that the projected research area contains remains of much historical significance. The remains of the farmhouse have been reduced to a few brick-and-mortar pylons and limited midden scatter, which he assesses can be recorded and sampled adequately in two weeks' time. As he gathers up his equipment after his final day of survey, he is approached by a few members of the community, who wish to know what he is doing on their ancestral land. Taken aback, Farnsworth replies that he had never heard of pre-colonial occupations or sacred sites associated with this stretch of land. As the conversation continues, it becomes clear that the representatives know precisely what Farnsworth's survey entails, and the development which threatens to follow his work.

Unsure of what to do, Farnsworth apologizes for any misunderstanding and finishes gathering up his tools. On the way back to the office, he mentions the encounter to his supervisor, Gerald, who dismisses the claimants. "They are always saying we are working on their sacred site," he explains, "they just don't like to see things change around here." Citing his previous work there, and referring to ethnographic data, Gerald explains that there is absolutely no history of sacred sites on this territory, nor any indication that this land is ancestral. "Besides," he continues, "even if it were an ancestral site, they would never reveal to us the sacred things. So there is just no way to prove that they are right. Right?"

As he sits down to write his preliminary report that night, Farnsworth realizes he is struggling with what to do. His manager is expecting a mitigation report from him the next day, but now he is not so sure that archaeological "mitigation" is an adequate treatment for a site that may still have cultural value.

Case 9

The Bio-Stasis-Equilibrium (BSE) project is a five-year research initiative run by Dr. Gallena, an anthropology professor at South Coast University, in conjunction with colleagues from geology, paleoclimatology, computer modeling, and biology departments at SCU. The BSE initiative seeks to show how integration of several disciplines into a single project can provide not only answers to a region's past, but also solutions to conservation issues in the present and future. They have selected the Gulf Coast as a research area, and have received generous funding from the Foundation for Integrative Research Development to pilot this initiative. This, the third year of the initiative, has proven particularly fruitful, as efforts have turned to a remote and inaccessible intertidal site near the remains of an ancient village, a site that is under threat, among other things, by development and tourism industries. Dr. Gallena specializes in architecture and settlement pattern studies, and has suspected for some time that the earliest villages will be found in the intertidal zone, an area that would have been a convenient offshore bluff when sea level was somewhat lower.

One afternoon, Patrick, her most senior graduate student, approaches her from the southern point, where he has been deftly supervising a team excavation. From his brisk walk, she can tell it is something important. "We've hit the jackpot!" he shouts, waving a Tupperware full of material in the air. When he arrives, he tells her of the rich pit and post-hole features he has discovered in the intertidal zone—all full of perfectly preserved seeds and other organic remains, some of which he has brought to show her. "We can't tell much about the house shape or size, but it looks like we have found a corner of a structure!" he exclaims.

Thrilled, the two head back to the excavation briskly, and marvel at the liters of faunal and botanical remains that line the exposed features. They begin collecting the materials, and soon realize the storage containers they have brought will only hold a fraction of the material. Sighing, Dr. Gallena suggests they sample some of the material from each pit, despite knowing that once the material is exposed to air, it is likely to disintegrate if appropriate conservations are not taken. This would mean losing some of each sample, but potentially having a better grasp of the site as a whole. At that moment, Dr. Fielding, the marine biologist on site, approaches. "Sample!?! These remains could be thousands of years old, and they are our only window into environmental conditions, flora and fauna of this region!" Patrick adds that, since little is known about subsistence and consumption practices for this time period and region, much would be gained by establishing a comparative collection out of these remains. "When are we likely to find such well-preserved materials again?"

Dr. Gallena is suddenly unsure what to do. She knows that these materials are valuable, but worries about the cost and labor of collecting, transporting, analyzing and preserving these remains. She also worries that, without a paleoethnobotanist on site, collecting the material might be worse than leaving it be. But would it be worth anything if they returned with an expert at a later date? The amount of material produced if they were to continue excavating the structure would fill up at least one entire laboratory. In addition, she is hesitant to stop excavation of the structure now, knowing that this piece of land might become a resort site within the year, making it impossible for her to develop any notion of spatial organization or architectural features relating to the house.

Case 10

Lucy Jones is a Forest Service archaeologist in the southwest. During the summers she works as a fire line archaeologist, running in front of dozers while they create fuel breaks ahead of approaching wildfires. All dozers working a wildfire on federal lands are required to have an archaeologist assigned to ensure that archaeological sites are protected.

A wildfire starts in an area of the Forest that Lucy works on over the 4th of July weekend. The summer winds quickly cause the fire to blow up with flames reaching over 100 feet, and residents are told to evacuate immediately. A dozer is brought into the fire and Lucy is assigned to work with it. They begin creating a fire line along the Forest Service boundary to protect a very exclusive neighborhood of multimillion dollar homes immediately adjacent to the forest. Lucy is aware that there is a large pueblo located along the forest boundary that extends into the back yards of several neighborhood homes. The pueblo dates to Spanish contact and is over 500 rooms in size with an intact Spanish mission church. It is considered one of the most well preserved mission pueblos in the region. Her original plan was to go around the pueblo on the forest side and avoid the site altogether, thus, protecting both the site and the neighborhood. But the fire is approaching quickly and the dozer boss is concerned about the time it would take to go this direction. He is pushing for a faster alternative.

Lucy tells the dozer boss that they could go around the site the other direction, through a few feet of the backyards of the homes on private land. There is less of the site on the private side of the fence and it would be faster. The dozer boss shakes his head and tells her it's not an option – they would do too much damage to the private land and they don't have permission to trespass. He tells her the fastest way is to go through the site. This will protect the homes quickly and effectively. Lucy knows that in an emergency situation they are allowed to work on private land to prevent the loss of structures but is having a hard time reasoning with the dozer boss. She feels strongly about protecting the site, and that overturning a few flower beds is a small price to pay for protecting this site. The dozer boss, however, appears to be more concerned with the repercussions from the private land owners than the protection of the pueblo.