

Case studies for the

Fourth Annual Intercollegiate Ethics Bowl

**To be held at the 72nd Annual Meeting of the
Society for American Archaeology**

**Austin, Texas, USA
April 26, 2007**

**Sponsored by the
Society for American Archaeology Committee on Ethics
and the
Society for American Archaeology Board of Directors**

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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

Professor Kay Smith-Jones is a full professor at Midwest State University. She is now a well-established scholar, having published several books and more than 100 journal articles. She is widely recognized for her innovative work on many archaeological topics.

Some 25 years ago, Smith-Jones was a 21-year-old undergraduate student applying to graduate schools. As part of her applications, she submitted her senior honor's thesis to the graduate selections committees of five well-known universities. One chapter of Smith-Jones's honor thesis was a sophisticated quantitative analysis of artifact patterning among a suite of sites in the Arctic. Four of the five graduate departments to which Smith-Jones applied accepted her.

Professor Tim Anderson, a faculty member from Ivy University, the one department that rejected her application, went on to publish the key chapter of Smith-Jones' undergraduate honor's thesis in an international journal the following year. He collaborated with a statistician from his university and published only under his own and his co-author's names. Smith-Jones' thesis was not cited, and Smith-Jones did not give Anderson permission to publish her work. Smith-Jones herself never published her thesis in a peer-reviewed journal, and her thesis was not archived at her alma mater.

For years, Smith-Jones has tried to forget this incident, which she feels was a clear case of plagiarism. She decided that to publicly speak out about it would have jeopardized her own career, as well as that of Professor Anderson. She recalls that her own undergraduate advisor told her that such appropriation is common: that he too had his work taken by his professors. In recent months, Smith-Jones has begun to reconsider, however. Smith-Jones spoke with her department chair, and he encouraged Smith-Jones to publicly address the issue, even at this later stage in her career. However, a colleague in her department, after hearing the story, told Smith-Jones there is an "implicit statute of limitations on ethical violations." Smith-Jones was uncertain what she could do that would make a meaningful impact, and whether or not anyone would listen to her since she has been silent for more than two decades.

Case 2

A group of developers, BD Partners, is planning a major shopping area with a Sav-Mart in Albuquerque, New Mexico. The developers hired Phillip Chow, who owns a small CRM firm, to investigate the vacant 65-acre lot. The developers told Chow that they were quite certain his team wouldn't find anything at all. The contract stipulated that Chow would receive "a base fee of \$5,000 if no significant archaeology was found or, in the alternative, \$200 an hour." Furthermore, the contract included an ownership clause that stated, "All studies and reports made, developed, or created, in whole or in part, by the CRM firm in the course of its research shall be the property of BD Partners."

Chow and his crew recorded seven sites, including an Archaic site. Feeling that the sites were important—especially the Archaic site, a relatively rare find for the area—Chow tested all seven sites. The messages Chow left for the developers went unanswered. At several points in the fieldwork, Chow and his team were confronted by a group of protestors who objected to the planned Sav-Mart. After discussing their work, the protestors grew to support Chow, thinking that the identification of archaeological sites could slow the development process. After four weeks of work, Chow sent a bill to the developers for \$20,000, and stated that the written report would follow shortly.

A day later, the developers contacted Chow and told him that they were only going to pay him \$5,000. They recently found a 1994 archaeological report, archived in the state land offices, which cleared the area of archaeological resources and specifically stated that no archaeological sites were located on the 65-acre parcel in question. The developers informed Chow matter-of-factly that they have decided to use the 1994 report, and that the services of his company were no longer needed. Since the 1994 report stated that there was no archaeology on the parcel, he would not be paid more than the originally contracted amount. Furthermore, Chow was told that he should turn over all studies and reports produced from the project to the company, and not publish or distribute any of them to anyone.

Case 3

In 1992, a suicide bomber killed 127 people at the ancient site of Tuminia, a popular tourist destination in the Near East. Among those killed were 12 Americans. Several years later, the families of the bombing victims sued the Republic of Qumar in an American court, arguing that the state sponsored this act of terrorism. The families won the lawsuit, and a \$200 million award. Since Qumar rejected the American court's decision and refused to pay, the court gave the families the right to collect Qumar assets in the United States.

In 1970, the Qumar government had made a long-term loan of hundreds of ancient artifacts, including the famous Gold Cache of Tuminia, to the Museum of Antiquities, located in New York City. The families of the bombing victims recently said in the press that their lawyer advised them to seek a federal court order to seize the ancient artifacts so that they can be auctioned and the money used as part of the compensation awarded to them.

One morning, while sipping coffee at her desk, Dr. Cynthia Alberto, the director of the Museum of Antiquities, reads the article about the families' intention to sue. As the sweat breaks from her brow, she begins to think about all the different issues: Doesn't the country of Qumar have certain property rights? What would happen to the museum if suddenly hundreds of the museum's prized artifacts disappeared from the display cases? Would donors still want to donate artifacts to the museum if they knew the museum would hand them over for liquidation? Even with sympathies to the families, wouldn't putting the museum's collections up for auction mean abetting in the commercialization of the collections?

Case 4

Dr. Julie Heron, a project director at a major CRM company in southern California, was recently approached by James McPhee, an attorney defending a man accused of violating the Archaeological Resources Protection Act. McPhee asked if she would be interested in helping with the case, for which she would be well compensated. McPhee explained that his client was caught digging into the middens of an archaeological site located on Federal land in eastern California, but the 20-year-old client erroneously believed that as a member of the public he was free to dig on public lands—a foolish mistake for which he now feels deep remorse.

The lawyer said that during “discovery” phase of the case, he learned that an assessment of \$38,000 in damages had been made. Following the procedures established by the ARPA Uniform Regulations (43 CFR Part 7), an archaeologist, hired by the federal prosecutor, examined the looted site, and determined a figure of \$27,000 for archaeological value, \$8,000 for cost of restoration and repair, and \$3,000 for commercial value of the artifacts taken. McPhee said that he recently found a damage assessment for a similar site with similar damage, and the total damage figure was only \$9,000. The lawyer emphasized to Dr. Heron that her investigation should be objective, but that a five-year prison sentence for the accused is on the line, and if a lower assessment could be found, it would likely result in a stiff fine, but no jail time.

Case 5

The USS Washington was one of the major battleships struck during the attack on Pearl Harbor on December 7, 1941. Today, the ship is a war memorial maintained by the National Park Service; it is also a tomb. Some 800 sailors were trapped in the attack and because of the damage to the vessel their bodies were never recovered.

Although a symbol of national valor and a powerful historical artifact, the USS Washington has begun to leak oil into the harbor. Scientists have estimated that a half million gallons of oil are trapped in the hull. Several studies warn that the hull is rapidly deteriorating, and if it breaks apart, which is a distinct possibility, there will be an oil spill in the harbor of catastrophic proportions. Because the hull was so mangled in the attack, a simple extraction of the oil is not possible.

The National Park Service, responsible for the stewardship of the USS Washington, has been receiving numerous calls: primarily from environmentalists that want the ship dismantled and from war veterans who demand the ship's preservation. The NPS decides to hire a preservationist-oriented archaeologist, Dr. Verity Rather, to give them a report that offers ethical guidance on how to approach the problem.

Case 6

Dr. Gomez is an Associate Professor of anthropology at Southern State University and President of the Southern Archaeological Organization (SAO), a regional society of avocational archaeologists, CRM professionals, and academic scholars dedicated to educating the interested public about archaeology. The SAO publishes *The Southern Archaeologist*, a peer-reviewed journal with field-based reports, typically resulting from federally funded CRM projects or NSF grants. Members of the SAO who pay the \$55 membership fee per annum receive *The Southern Archaeologist* for free, one of the primary benefits of membership.

The Honorable James B. Jones is an Arkansas Senator who has recently proposed a new law, America's Open Access Act, which would compel any recipient of a federal grant to publish their work on a designated government Web site, open to all Americans, and indeed, anyone with access to the Internet. More specifically, the law would require scholars to provide the government with a reprint of their published work no later than six months after it was published in a peer-reviewed journal. The reprint would then be scanned and made available as a PDF on the government Web site. If the researcher did not publish the federally funded work in a peer-reviewed journal, she or he would not need to submit anything to the government; but if a researcher failed to follow the law, she or he would not be able to apply for a federal grant for five years. Shortly after making his intentions public, the Hon. Jones called Dr. Gomez asking if he and the SAO would consider publicly supporting the proposed law.

Case 7

The country of Kandi is in the midst of a horrifying civil war, brought about in part by the invasion of the United Republic, a large and powerful Western nation. The National Museum of Kandi holds the nation's most treasured archaeological objects, tens of thousands of objects excavated over the last century throughout the country. When the country was first invaded in 2000, the museum was one of the first buildings looted. While some of these artifacts moved into the international art market, other objects were taken to different areas of the country, where ethnic factions claimed they were safeguarding their heritage for their own people.

The Interim President of Kandi has recently said that to help quell the country's ethnic tensions, the collections of the National Museum of Kandi should be divided and placed into three regional museums. The President argued that this would allow the three main ethnic groups in the country to control their own heritage, while ensuring that all the collections remain in the country. Furthermore, he strongly feels that this gesture will result in an immediate reduction in ethnic violence. Leaders from one of the ethnic groups—the Jeen—have also made press by announcing that if they are given their cultural heritage, they will allow *only* Jeen peoples to enter their museum and access the collections.

In response, a group of 100 archaeologists—including many from the United Republic—have signed a letter pleading with the President of Kandi to reconsider. They ask that the collection be kept intact because a dispersed collection impedes productive research; moreover, they make a case that the antiquities of Kandi have already been scattered far too widely by the seven-year war. They argue that for the sake of national unity and the well being of humanity's heritage, the government should instead strive to redouble—not reduce—its power over Kandi's cultural heritage. The archaeologists write: "Separating the collections will reify and perpetuate ethnic division, whereas a national repository celebrates and enhances national unity." Specific recommendations include using the National Army to protect archaeological sites from looters, establishing stiff prison terms for prosecuted looters, creating a Secretary of National Heritage (a cabinet-level position), and increasing the National Museum's budget. "It is only the nation that can protect and preserve national heritage," the letter concludes.

Case 8

Allyson Carson is on her first dig as a crew member since receiving her B.A. in anthropology, from Northwest University. The 5,000-year-old village site she is working on is in Washington State, in the path of a major highway re-alignment. The excavation is being conducted by a medium-sized CRM firm, and about half of the crew members and all of the field assistants are Native Americans from surrounding communities.

After several weeks of work, Allyson and the Native American field assistant assigned to help her, Paul Chaplin, come across a burial. Per the Memorandum of Agreement (MOA) between the CRM firm and the local tribe, the archaeologists stop and temporarily cover the burial. The tribe is notified, and the archaeologists are given permission to excavate the burial, conduct in-field analyses, and then turn over the human remains and associated artifacts to the tribe for reburial.

As Allyson begins working with her dental pick—Paul is standing, waiting at the screen—the human bone practically disintegrates upon being touched. Allyson does her best to be careful and gingerly places small batches of dirt in the eighth-inch screen Paul is using. However, as Paul gently shakes the screen, it is easy to see white bits of bone falling through the mesh and into the back dirt. Paul becomes visibly upset. Allyson stops and goes over to the Project Director for advice. He tells Allyson that the MOA expressly states that the archaeologists must use eighth-inch screens, and so it is not their fault if a few fragments slip through; he also says that the discovery of the burial has already put them behind schedule and he wants her to finish the burial as quickly as possible, especially since the tribe will only let them do “token” analyses. Another crew member, overhearing the exchange, asks the Project Director if it might be possible to use Rhoplex 24 to preserve the remains *in situ*. The Project Director counters that he’s not familiar with such techniques and, anyway, using them to keep human bones in place might raise too many ethical problems and is not mentioned in the MOA.

Allyson returns to work, although somewhat uncomfortable with her Project Director’s direction. Paul says nothing. After another half hour of work, Paul suddenly stops screening and tells Allyson that he can’t work on the site anymore and that he is going to have to call his tribal office to tell them what’s going on.

Case 9

Assistant Professor Travis Hitchcock is about two years away from tenure review at Southwestern University. The department chair, Professor Beeman, one day invites Hitchcock to discuss his progress towards tenure. Beeman emphasizes to Hitchcock that his case will be significantly strengthened by one more major publication in a leading journal. Hitchcock replies that for the past three years he has been gathering data on Archaic projectile point variability in the Santa Rialto River drainage and that he plans to submit his results to *American Antiquity*.

But Hitchcock doesn't tell Beeman that he is uneasy about the data on which the study is based. Several years ago, a local "avocational archaeologist" named Derek Judge, loaned Hitchcock an unparalleled collection of points. Judge also turned over hand-drawn maps and notebooks with contextual information, which indicated that all of the points came from several of the large, private ranches in the region. Hitchcock felt that Mr. Judge was honest in their dealings, and Judge even served a term as President of the Santa Rialto Archaeological Society, a group of dedicated non-professionals interested in archaeology. However, when Hitchcock visited Judge at his home, the young professor couldn't help but notice the extensive collection of ancient and historic artifacts littering the house—and more recently he heard a rumor that Judge had a valuable collection of 19th century bottles dug from a 19th century railroad camp on public land, a violation of the Archaeological Resources Protection Act.

Professor Hitchcock desperately wants tenure, and he feels Judge's collection of points will be vitally important in understanding the history of the Santa Rialto River, but at the same time he is a member of the Register of Professional Archaeologists and concerned that his association with Judge might imperil his good standing.

Case 10

Professor Sam Chan runs an archaeological field school outside of Phoenix, Arizona. Every year, to celebrate the end of the hot and dusty field season, Professor Chan sponsors a volleyball tournament and barbecue—a relaxing and fun highlight for many of the TAs and students. Typically, the students divide into two teams a week before the tournament, and select a team captain and mascot.

While driving into Phoenix one day on a supply run, Cheryl Albee, one of the team captains, passes the Desert Indian Boarding School, and sees on their marquee the school mascot—The Warriors—and their emblem represented by two crossed arrows. Earlier that day, Cheryl had excavated from a pithouse two arrows, placed in almost an identical position to the image on the marquee. Cheryl thought it almost fate that her volleyball team should be called The Warriors!

That night, Cheryl shared her idea with her teammates who readily agreed—except for one student, Brian Swain. Brian, although not against the mascot per se, asked his teammates if maybe it wasn't offensive to use an Indian moniker for their team mascot. Cheryl retorted that it was a mascot for the Indian boarding school after all, and since they used it, surely so could the volleyball team. Besides, Cheryl said, "I'm one-quarter Seminole, and I'm not offended by the mascot." Brian persisted, however, and explained that he was concerned several of the other students—perhaps especially the two Native American students attending the field school—might feel the name was inappropriate. Several students, after hearing the exchange, began to side with Brian. After further heated discussion, all agreed that in the morning they would take the issue to Professor Chan and let her decide.

Keywords:

Case 1: plagiarism; student training; public reporting and publication; mediating conflict

Case 2: CRM client relationship; ownership of reports; public reporting and publication

Case 3: museum loans; property rights; commercialization; archaeology and terrorism

Case 4: ARPA; stewardship; justice

Case 5: underwater archaeology; stewardship; memorials; environmental concerns

Case 6: intellectual property; public education and outreach; public reporting and publication

Case 7: museum goals; records and preservation; archaeology and war

Case 8: repatriation, Native American relations, CRM

Case 9: public reporting and publication, looting, ARPA, RPA

Case 10: Native American representation, student training, respect