



## Physical Anthropology Section – 2008

### H21 What Starts as a Homicide Ends as a Forgotten Cemetery: How Medical Examiners, Law Enforcement, and State Archaeologists Work Together to Protect Archaeological Sites

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After attending this presentation, attendees will understand the jurisdictional issues involved in the scene recovery and analysis of prehistoric and historic skeletal remains and artifacts (e.g., those cases involving human remains, cultural artifacts, and parcels of land that legally have no forensic significance).

This presentation impacts the forensic community by providing information to the various forensic stakeholders that become involved in cases that begin as medicolegal investigations of death that end as cases of archaeological importance and therefore become the responsibility of the state archaeologist or private land owner.

The treatment and recovery of archaeological remains, cultural artifacts, and land has become a delicate issue rife with controversy. Frequently, there are questions as to the appropriate and timely participation of the state archaeologist, as well as rules governing the transfer and final interment of Native American and historic (non indigenous) skeletal remains and associated cultural artifacts. Most federal and state statutes require that when a burial ground is uncovered during a non-archaeological activity (e.g., land development, criminal investigation), all activities that may disturb the remains and burial site must cease immediately, until such time as the state archaeologist's representative makes a decision regarding the proper disposition of the remains, artifacts, and land.

By statute, law enforcement must protect the scene and the medical examiner or coroner is responsible for the remains until the arrival of and further instruction by the legal representative of the State Bureau of Archaeological Research (BAR). The BAR representative may be an archaeologist, a skeletal analyst, or both. BAR scientists will analyze the site, human remains, and cultural artifacts to determine if they are forensically significant (e.g., 50 or 75 years dead, depending on the state). If the remains are determined to be of forensic importance, the district medical examiner or coroner retains custody of the remains and law enforcement retains jurisdiction over the scene until all pertinent forensic evidence is collected and the scene is released.

The custody of remains that are not of forensic significance, as determined by BAR scientists are to be turned over to the state archaeologist (some states, such as Florida, require that this transfer of custody take place within thirty days of taking custody of the remains). Most federal and state statutes require that these remains are studied by an osteologist, who will generate a report concerning the cultural affiliation and biological characteristics of the remains in question. Usually, cultural affiliation is determined through multiple lines of evidence such as cross-referencing GPS coordinates with the BAR's master site file, taphonomic markers (e.g., coffin wear or coping), ancestry, the presence of disease markers or physical behaviors that may leave marks on bones or teeth (anemias, lack or presence of caries, or paramasticatory behaviors), C14 dating, and stable isotope analysis.

Penalties are far reaching for those who do not abide by the guidelines set forth in the Native American Graves Protection and Repatriation Act (NAGPRA) and other federal and state laws. Some states fine those who continue to disturb a burial between \$5,000.00 to \$150,000.00. A period of imprisonment of up to 5 years may also be imposed. In the state of Florida, the BAR tends to pursue these law breakers up to the fullest extent of the law.

In Florida, the recovery of prehistoric and historic sites that contain human skeletal material is common, especially with constant new development. As such, we have provided examples that have culminated in the smooth transition of sites to the BAR from their forensic beginnings. In these examples, medical examiners, law enforcement agencies, and BAR have provided and public service that was well received by the general public, tribal entities, and land owners. This presentation will also underscore the importance that: (1) the forensic community needs to be aware of the geophysical, skeletal, and artifact markers of archaeological sites, (2) the legislation enacted to guarantee that all reasonable efforts are taken to ensure the protection of all human skeletal remains, as well as other cultural items deemed to be archaeological, and (3) steps necessary to protect the involved remains and artifacts in accordance with state and federal laws.

#### **Cultural Affiliation, Human Remains, Archaeology**