

Human Remains Task Force Report to the Secretary

January 10, 2024

The Smithsonian Institution assembled this task force to make policy recommendations to the Secretary concerning human remains in the custody of Smithsonian units. The task force was asked to assemble information on the scope and size of these holdings and to consider what Smithsonian policy should be on collecting, borrowing, lending, holding, and conducting research upon them.

Historical Background

Most of the remains came into the Smithsonian's custody in the nineteenth and early twentieth century and were to be used for scientific research. While science seeks to develop objective knowledge, it is a human endeavor and therefore can be and often is influenced by ideology. Since the Smithsonian's founding in 1846, the ideology of white supremacy, manifest in systems of slavery, segregation, immigration restrictions, and expansionism was deeply embedded in American society and government policy. Established as a federal trust instrumentality, the Smithsonian's practices reflected what has come to be referred to as "scientific racism."

Many natural scientists and anatomists of the time, including several founders of the new discipline of anthropology, believed that race was a fundamental natural category, a determinant of human differences and levels of cultural development. Beginning with craniology in the late eighteenth century and then expanding to include eugenics in the late nineteenth century, scientists sought to gather evidence to "prove" racist theories and justify social practices as founded upon what they construed as objective truth. Their research bolstered mistaken beliefs that, to many white people, appeared to be legitimate truths.

Starting in the late nineteenth century and accelerating during the decades-long tenure of Aleš Hrdlička, its first curator of physical anthropology, the Smithsonian, like other museums, amassed collections of human skeletons and organs to help document racial and other differences among human beings. While all human beings are inclined to memorialize their dead, the bodies of the least powerful (people of color, the poor, immigrants, and institutionalized people) served as an accessible and convenient reference to support the interests of scientists who presumed the inferiority of marginalized peoples.

Following the defeat of Nazi Germany, a eugenical state, and the Civil Rights Movement's defeat of racist Jim Crow laws, scientists at the Smithsonian and other institutions increasingly acknowledged the evidence that opposed and undermined the biological existence of race, racial determinism, and racial superiority. Though racial determinism waned, some Smithsonian

scientists continued to adhere to descriptive racial categorization based on human skeletal collections and DNA analyses, even as most American anthropologists came to reject the concept of biological race and the study of racial differences.

Racial and other demographic data continues to serve forensics and other studies that correspond with broad societal assumptions about racial identification. Skeletal data are examined to identify morphological differences of age, sex, population affiliations, and pathologies. This work is generally independent of racial classification and increasingly focused on societal effects.

Human Remains at the Smithsonian

Today the Smithsonian holds human remains of more than 30,000 individuals from dozens of countries and time periods across thousands of years. Most of them have been under the care of the National Museum of Natural History (NMNH) since the early twentieth century. The majority of these remains are whole or partial skeletons, teeth and bone fragments, and a small proportion are scalp hair, embryonic and fetal remains, and fluid-preserved tissues, including approximately 250 brains. In addition, some cultural works in the collections contain human remains, usually blood, bones, and hair. This report is not intended to address these cultural works. These and sacred objects will be addressed in the future under separate cover.

Around half of the human remains in the Smithsonian's care are those of Native American people and are subject to the repatriation requirements of the National Museum of the American Indian (NMAI) Act of 1989, which predated the Native American Graves Protection and Repatriation Act (NAGPRA) by a year but enshrined many of the same principles. Roughly 2,100 are African Americans whose remains are either included in a collections loan to the NMNH or accessioned as part of the permanent collections. In total, there are almost 6,000 individuals whose names are known either in full, partly, or by their initials.

During his four-decade tenure from 1904 to 1941, Hrdlička transacted acquisitions of skulls and other body parts through purchase, trade, autopsy, donation, and plunder. With few exceptions, remains were acquired without consent from the individuals or their families. After Hrdlička's tenure, NMNH's holdings of human remains increased through archaeological excavations, institutional transfers, body donations, and forensic casework into the twenty-first century.

Historic inequities facilitated the expropriation, curation, and unconsented use of human bodies. This is our unfortunate inheritance, a racist legacy that burdens the Smithsonian and prolongs this injustice. While much of this collecting of human remains was done by curators and individuals long dead, it occurred at the Smithsonian and relied on the Smithsonian's resources, reputation, and influence. The original intent of collecting these human remains was morally abhorrent, because it sought to prove the superiority of white people and their descendants to

Native Americans, African Americans, and others through scientific means that are now thoroughly discredited.

As a premier institution of research dedicated to the increase and diffusion of knowledge, the Smithsonian is obligated to establish ethical standards and to seek justice for those harmed or exploited. The Smithsonian of today rejects the premise and the process of conducting non-consensual and exploitative collecting of human remains. Ancestral remains are sacred in virtually all world cultures and to most Americans. They are the remains of human beings, ancestors, regardless of circumstance, and therefore deserving of proper, humane care in accordance with the wishes of descendant individuals and communities. As the Smithsonian moves forward, it should do so thoughtfully and as rapidly as possible without doing further harm to individuals, families, or communities.

In sum, the task force recommends the Smithsonian develop a policy regarding the treatment and return of human remains in its care consistent with the following principles:

- The Smithsonian should, with all practicable speed and consistent with applicable law, offer to return the remains of people who did not consent to being in Smithsonian custody to their descendants and descendant communities, organizations, and institutions.
- These remains ultimate disposition should be determined by descendants and descendant communities, organizations, and institutions.
- Human remains should not be collected or possessed by the Smithsonian without the documented and informed consent of the deceased or, in appropriate circumstances, their descendants or descendant communities.
- Human remains should not be displayed by the Smithsonian (in exhibition, print or online) unless done so with the documented and informed consent of the deceased or, in appropriate circumstances, their descendants or descendant communities.
- Research on human remains in the custody of the Smithsonian should be restricted to specific purposes and subject to scholarly review and conducted only with clear informed consent of the deceased or, in appropriate circumstances, their descendants.
- Reasonable efforts should be made to identify lineal descendants of the deceased currently in the custody of the Smithsonian. Destructive analysis on human remains should not be used to identify descendants.
- When lineal descendants cannot be found after reasonable efforts, the deceased's community of origin or an appropriate community organization or institution of interest should be identified, and decisions regarding the care and disposition of the remains should be made in conjunction with that community. If a community of origin or interest cannot be identified or determined, or if the appropriate community cannot achieve consensus, the Smithsonian should establish a process for burial or reburial and memorialization on behalf of the deceased. This process should also encompass any other

human remains collected without consent that the Smithsonian is not able to return (for example, individuals with no identifying information).

- Repatriation of Native American remains under the NMAI Act should be expedited with increased funding and/or streamlined processes. The NMAI and the NMNH should proactively engage descendants and tribes rather than waiting for them to initiate requests.
- A staff dedicated to the project of returning human remains in Smithsonian custody should be established at the NMNH. This staff should be separate from the staff dedicated to repatriation under the NMAI Act.
- The Smithsonian should prioritize deaccessioning and returning human remains by dedicating staff and financial resources to support the effort. The Smithsonian should seek added resources from both Congress and philanthropic sources to carry out the work. Additional resources should be sought for grants to descendants to facilitate memorialization.
- A high-level committee of Smithsonian staff, led by the Under Secretary for Science and Research and the Under Secretary for Museums and Culture should plan and oversee the policy and its implementation and report regularly to the Secretary on their progress.

We set forth further thoughts and recommendations on specifics of these points below.

We base our recommendation on ethical principles that should govern the care and return of human remains. We believe that all human beings and their remains have equal moral dignity and worth and should be treated accordingly. We believe the Smithsonian must hold itself accountable for the harm it has done. The process for returning remains should be transparent. Information about the human remains in Smithsonian custody should be accessible to the public, although limited restrictions may be necessary to protect the privacy of descendants and individuals whose names are known while processes of contacting descendants and return or reburial are resolved. Careful review of collections should be undertaken to verify catalog details and ensure a thorough understanding of the Smithsonian's stewardship responsibilities to human remains in its custody. With certain collections, other institutions may have authority or stewardship responsibilities, and the Smithsonian should work with those institutions so that remains can be returned to the extent possible in a manner consistent with the principles in this report. All future collections care and treatment of human remains in Smithsonian custody should be determined only with the consent of the deceased or, in appropriate circumstances, family members or descendants or descendant communities, organizations, and institutions.

Because the ethical return of human remains involves considerable information-gathering and expenditure of time and other resources, priorities need to be set for returning human remains. In prioritizing the return of human remains, the following principles should be considered:

- The collection of human remains to support scientific racism has resulted in large collections of people from marginalized communities such as Native Americans, Indigenous people from other countries, and African Americans. The return of remains identified with these groups should be a priority.
- Individuals whose names are known and whose remains were taken without their consent should be prioritized.
- Large collections of human remains whose communities of origin can be readily identified and that can be returned relatively efficiently for burial in specific burial grounds or cemeteries, such as remains from specific university or medical school collections or specific burial grounds or cemeteries, offer opportunities to reduce the presence of human remains at the Smithsonian.
- When descendants or communities are organized and able to assist in research and the consultative process, the Smithsonian should act with empathy and dispatch in returning the subject human remains.

Research on Human Remains

The Smithsonian currently conducts a broad range of research on human remains, ranging from fossilized bones of the distant past to more recent historical populations. This report is not intended to apply to remains that, due to their antiquity, have no known unique relationship to a particular present-day population or community.

Human remains research can have positive and unharmed societal outcomes—regarding missing persons and health and population history, for example—and may be driven by the interest of individual investigators and scientific teams or by requests from federal, state, local and tribal government agencies, or foreign governments. In some cases, this research has been conducted on remains for which the Smithsonian has the consent of the deceased or the request of descendant communities for the work, but in most cases, consent has not been obtained.

Going forward, the following guidelines should be employed:

- All research must be conducted in adherence of the applicable federal, state, local, and tribal laws, and those, where applicable, of foreign governments.
- All research should be conducted in a manner consistent with the ethical principles contained in this report, and only after receiving the informed consent of family

members, descendants or descendant communities or institutions of interest obtained through consultation.

- Research on remains at the request of federal agencies or foreign governments and research on remains for which the Smithsonian has obtained informed consent from such authorities should continue.
- Any future research on remains for which the Smithsonian does not have the informed consent of descendants or descendant communities, or data and images derived from them, should not be permitted.
- Any future research on remains that includes racial identification based on physical features, which perpetuates false ideas about typological variation in human biology, should not be permitted.
- Destructive analysis of human remains should not be used as a means of identifying descendants or descendant communities. Destructive analysis for other purposes should only be conducted with the informed consent of descendants or, where appropriate, descendant communities.

Consultation and Consent

We believe that informed consent is the baseline for any collection of, care of, or research upon human remains going forward. Where the deceased or their representatives have volunteered their bodies for science, research, or display, the Smithsonian will aim to ensure they have freely consented, fully understood, and set the terms for their ongoing care. Given that the vast majority of existing remains in Smithsonian custody did not come with the consent of the deceased, the Smithsonian must make a good faith effort to find appropriate living representatives for the deceased and seek their consent to future care of these remains. Consent requires that those representatives agree to the Smithsonian's plans and proposals after they have been fully and transparently informed by the Smithsonian of all key facts and issues relating to those plans and proposals.

Ideally, the Smithsonian will go above the baseline of consent. In keeping with the principles underlying this report, and with attention to its unique role that Smithsonian as a steward of collections held in trust for the public, the Smithsonian has the responsibility to respectfully engage, consult, and work collaboratively with descendants and communities represented in its collections. True consultation and engagement with communities is a collaborative process involving the exchange of information and respectful, open discussion between the Smithsonian and the appropriate representatives of the deceased with respect to the treatment of the remains.

Both the NMNH and the NMAI have established protocols for engaging with tribes and lineal descendants regarding Native American remains in their collections, and the analysis that follows does not apply to human remains subject to the NMAI Act. Nearly half of the human

remains in Smithsonian custody, though, are not subject to the NMAI Act, and we recommend the development of a system for encouraging organized communications on behalf of the Institution.

Where family members and lineal descendants of the people whose remains are in our custody can be identified with reasonable effort, they should be located and consulted, and their informed consent should be sought. When the effort to identify lineal descendants fails after reasonable effort and further efforts are impractical, the Smithsonian should consult with the community, organizations, and institutions that best represent the interests of the deceased.

“Community” as used here is a flexible and sometimes complex term that includes stakeholders, interest groups, citizen groups, and others. A community often will be a group of individuals who share a collective identity due to shared geographic origin, a common language or dialect, shared secular or non-secular traditions, genealogical relations, or other social, cultural, economic, historic, and religious connections. It may also represent a group, aggregation, organization, institution, or movement of people with a civic interest whose knowledge and background make them credible and appropriate parties who may advise and collaborate with the Smithsonian as to the care and disposition of particular remains.

The task force recommends a conceptualization of descendant communities that are socially based and biologically related. Descendant communities will often be inclusive of some lineal descendants but does not depend on their identification to exist. Descendant communities include those who may overlap with some of the categories listed above (geographic, social, religious, historical, etc.) and who care deeply about the deceased. The task force recommends that the Smithsonian treat these groups as representatives of the deceased to whom the Smithsonian has ethical responsibilities and from whom the Smithsonian should seek consent for the care, treatment, and return of human remains.

Where descendant communities cannot be identified, the Smithsonian should turn to communities of practice, organizations, or institutions, which may include but are not necessarily composed of descendants (lineal or social). Such communities are defined by a common interest or shared project relating to the future of human remains in Smithsonian custody and may be relied upon as appropriate representatives due to their interest, expertise, and sensibilities.

Given this complex conceptualization of descendant communities, the task force recommends that the Smithsonian establish a flexible, sensitive, and ongoing process of identifying appropriate community representatives to participate in work involving human remains. Consent, consensus, transparency, and shared authority must be central to the relationship between the Smithsonian and these communities. While consensus is the ideal, there very well may be cases of disagreements among descendants and within and between community groups. The

Smithsonian will need to be sensitive to such disagreements and adept in working with the various parties to resolve issues of consent in a fair and respectful manner.

Examples in which consultation with descendants and communities will be key for decision making include:

- Decisions on conducting research on human remains in collections and on the use of data resulting from such research.
- Decisions on burial, interment, and/or return of human remains.
- Decisions on cataloguing processes and metadata used for classification.
- Decisions around possible memorial and/or memorialization practices.
- Other possibilities not accounted for that are encountered during implementation of the policy.

The diversity of Smithsonian collections of human remains calls for thoughtful, special consideration of their varied links to living people and those communities' varied needs. Such consideration involves proper care of the remains themselves, as well as all documents, information, and objects associated with them. Investigating the relationships between human remains and living people may involve analyzing the remains and associated materials and sources for information about ancestry, geographic origins, sociocultural identity, postmortem treatment and preservation, as well as other relevant evidence. Special consideration must be given to providing the necessary resources to ensure a professional, ethical, nuanced, and thorough approach to these investigations.

Additional matters that we anticipate will need to be addressed during implementation within the oversight of the Secretary include:

- A process for mediating appeals or a situation where consensus among descendant or descendant communities is not possible.
- Guidance to determine appropriate communities or communities of practice when descendant or descendant communities are not able to be identified.
- Guidance for Smithsonian archives, collections information, and data related to human remains.
- Guidance for associated objects or sacred objects related to human remains collections.
- Consideration of and guidance for culturally modified human remains or cultural works that include human remains.

Appendices

Appendix A: Human Remains Task Force Members

Appendix B: Human Remains Task Force Charter (Draft)

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- Kevin Gover, Co-chair, Smithsonian Under Secretary for Museums and Culture
- Ellen Stofan, Co-chair, Smithsonian Under Secretary for Science and Research
- Craig Blackwell, Associate General Counsel, Smithsonian Office of General Counsel
- Michael Blakey, National Endowment for the Humanities Professor of Anthropology, Africana Studies, and American Studies and Director for the Institute of Historical Biology, College of William & Mary
- Philip Deloria, Leverett Saltonstall Professor of History, Harvard University
- Celia Emmelhainz, Supervisory Anthropologist, National Anthropological Archives & Human Studies Film Archives, National Museum of Natural History
- Richard Kurin, Smithsonian Distinguished Scholar and Ambassador-at-Large
- Gabrielle Miller, Program Specialist/Archaeologist, Center for the Study of Global Slavery, National Museum of African American History and Culture
- Rick Potts, Chair of Anthropology, National Museum of Natural History
- David Resnik, Bioethicist, National Institutes of Health
- Marguerite Roby, Photograph Archivist, Smithsonian Libraries and Archives
- Sabrina Sholts, Curator of Biological Anthropology, National Museum of Natural History
- Reed Tuckson, Managing Director of Tuckson Health Connections
- Sally Yerkovich, Director of Educational Exchange and Special Projects, American-Scandinavian Foundation and Adjunct Professor, Columbia University and Seton Hall University
- Kevin Young, Director, National Museum of African American History and Culture

Committee Staff

- Stacy Cavanagh, Lead Program Officer for Strategy and Organization, Office of the Under Secretary for Museums and Culture
- Joanne Flores, Senior Program Officer for Art, Office of the Under Secretary for Museums and Culture
- Kellye Chinichian, Executive Assistant to Ellen Stofan
- Cara Fama, Executive Assistant to Kevin Gover

Appendix B: Human Remains Task Force Charter (Draft)

Smithsonian Task Force on Human Remains Charter (DRAFT)

The Smithsonian has developed one of the largest scientific collections in the world, among which are the remains of more than 33,000 people. These diverse holdings of human remains are based in part on ideas about human variation and their perceived value for scientific research. The human remains held by the Smithsonian come from many sources, including transfers from government agencies, donations from museums and universities, loans from other institutions, and collecting activities by staff. As with many aspects of museum management, the best practices for care and research of these collections have evolved over the last century along with advances in scientific methods, ethical standards, and legal frameworks.

The Smithsonian acknowledges that some of the practices of its past are no longer acceptable today. The Smithsonian has placed temporary restrictions on research on human remains in its care and the acquisition of any additional remains. The Smithsonian has established this committee to assess the human remains and associated materials in its collections, including examining the circumstances under which they were acquired. The committee will also interrogate and assess the reasons for holding human remains in its permanent collections and conducting research on human remains. Finally, the committee will evaluate the human remains in the Smithsonian's care and offer recommendations as to which of those remains should be removed from the collections for ethical reasons.

The Smithsonian intends to repatriate or return to the greatest extent possible all human remains that were collected unethically. We acknowledge that our possession of these collections carries with it certain ethical obligations to the places and people where the collections originated. These communities of origin must be partners in this work if the work is to be done well. Community sensibilities are paramount in our consideration of the ultimate fate of the collections.

For many years, the Smithsonian has had a rigorous framework for the care and repatriation of Native American and Native Hawaiian remains through the [National Museum of the American Indian Act \(NMAIA\)](#), 20 U.S.C. §80q (Public Law 101–185), as amended by the [NMAI Act Amendment of 1996 \(Public Law 104–278\)](#). The purpose of the 1996 amendment was to align the NMAI Act with the repatriation provisions of the [Native American Graves Protection and Repatriation Act \(NAGPRA\)](#), which governs repatriation for U.S. institutions that receive federal funding. Our work with human remains in Smithsonian collections not covered by the NMAI Act will be well informed by this experience.

Developing a policy on ethical return and shared stewardship of human remains follows the recent revision of the Smithsonian's overall collections management policy (Smithsonian Directive (SD) 600, updated May 2022). That revision included adoption of a new provision authorizing shared stewardship arrangements and return of collections based on ethical considerations. As revised SD 600 recognizes, the Smithsonian, as a steward of collections held

in trust for the public, has the responsibility to respectfully engage, consult, and work collaboratively with descendants and communities represented in our collections and those we serve.

Evaluating all human remains in our care for shared stewardship or return will take considerable work and will require collaboration among Smithsonian collections management staff and researchers, the biological anthropology research community, and especially the many communities with interests in these human remains. Establishing a policy framework will create a foundation to conduct this work with clarity and consistency across disciplines. The Smithsonian's policies and practices in this area must balance the interests of scientific research with the Institution's ethical values and respect for the individuals whose remains are in our care.

Smithsonian management has laid down three objectives that the committee will help to achieve:

1. Prioritize and accelerate the return of human remains of Native American, enslaved and formerly enslaved, and other marginalized people;
2. Stop the study of human remains for which we do not have permission from those people or their descendants or communities of origin; and
3. Remove from the collections and return when appropriate as many human remains as possible by 2030.

The committee consists of internal and external experts and stakeholders. Its task is to recommend processes aimed at reconciling the scientific research with matters of ethical practice regarding collections research, accessioning or deaccessioning, curating, displaying, memorializing or otherwise working with human remains held by the Smithsonian. The specific goals of the committee are:

Define collections survey and inventory process.

The committee will make recommendations regarding a review process for identifying, and organizing, collections and activities (research, teaching, loans etc.) involving all human remains and archival materials held by the Smithsonian. This includes accessioned collections as well as those on loan and physically present at the Smithsonian. This process will provide consistent oversight and awareness of activities involving human remains across Smithsonian collecting units.

Define community consultation and engagement protocols.

The committee will outline practical ways to identify and include members from descendant communities and/or communities of practice in decision making related to activities involving human remains to establish key elements of consent, consensus, and shared authority.

Define how the Smithsonian should prioritize returns.

Human remains came into Smithsonian collections over a long period of time for several different purposes and under a variety of circumstances. The committee will recommend criteria the Smithsonian should consider in establishing priorities for return to descendants and communities of origin.

Establish review standards for research on human remains in collections.

The committee will recommend standards for researching, and using and accessing data related to, human remains, including recommendations for moratoria on specific collections and/or specific kinds of research on remains held by the Smithsonian. As noted, pending this review the Smithsonian has placed temporary restrictions on research on human remains in its care.

Define collections care guidelines that are sensitive to cultural protocols.

The Committee will recommend guidelines to ensure the individuals are stewarded with dignity and respect within Smithsonian collections until their final disposition is determined. The guidelines should create protocols and/or other mechanisms to ensure community consultation, voice, and authority in the process of balancing ethical practice, cultural protocols, and privacy with research. The guidelines should also address curation and/or display or other educational use of human remains, taking into account the wide manner in which human remains may appear in Smithsonian collections (for example, deliberate inclusions in art objects).

Establish the scope of deaccessions, burial, interment, and/or repatriation of human remains at SI not subject to the NMAI Act,

The Committee will recommend guidelines for the ethical disposition of human remains not subject to the NMAI Act, including remains for which there is no known descendant or community for return. This should include recommendations to provenance practices to ensure more complete and ethical cataloguing processes and/or metadata for classification.

The guidelines should center community consultations and protocols, define a process for acknowledging individuals held by the Smithsonian, and recommend a path for reconciliation that will be shared with the public. The Committee may consider a space at SI for a memorial in cooperation with descendant communities.