

The importance of professional organizations as disciplinary leaders and the need for meaningful ethical codes in anthropology

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“A field that is unable to distinguish the proper from the improper, the ethical from the unethical, must tolerate all behaviors equally, since no neutral principle exists for accepting some and condemning others. There can be no good practices and no bad practices.”

—Appelbaum (1997, 233)

In April 2021, a news story broke about the misuse of the remains of a child killed in the 1985 MOVE bombing (e.g., Flaherty 2021; Kassutto 2021). These news stories outlined unethical behavior by biological anthropologists from the University of Pennsylvania and Princeton University (Flaherty 2021; Kassutto 2021). Soon after these reports, the Department of Anthropology at the University of Pennsylvania issued a statement of condemnation,¹ and the president and the provost issued a formal apology (Gutmann and Pritchett 2021). The Department of Anthropology at Princeton University issued a statement,² as did the president of Princeton University (Eisgruber 2021). A number of professional statements were also issued soon after, condemning the actions of the anthropologists involved. These include statements by: the Biological Anthropology Section of the American Anthropological Association,³ the American Board of Forensic Anthropology (ABFA BOD 2021), the American Association of Biological Anthropology (Leigh and Grauer 2021), and a joint statement by the Association of Black Anthropologists (ABA), the Society of Black Archaeologists (SBA), and the Black in Bioanthropology Collective (BiBA).⁴ There have also been a number of opinion pieces written about this incident from various perspectives, including from the surviving next of kin of the Africa family (Pilkington 2021), forensic anthropol-

ogists (Passalacqua and Pilloud 2021b; Stubblefield 2021), biological anthropologists (Lerner 2021; Loewen 2021), a cultural anthropologist (Thomas 2021), and a historian (Thomspon 2021).

After the reporting of the incident, the University of Pennsylvania announced that they would hire the Tucker Law Group, an independent legal firm, to investigate the circumstances that led to the incident. In a similar move, Princeton University hired Ballard Spahr LLP to investigate the incident and Princeton University's role in it. Similarly, the city of Philadelphia announced they would also conduct an investigation into the mishandling of the remains (Conde 2021). On August 20, 2021, the report from the Tucker Law Group was made publicly available, and in short, found no meaningful wrongdoing on the part of the anthropologists involved (Tucker Law Group 2021). Ten days later, Ballard Spahr LLP released their report, which also found that the anthropologists did not violate any laws or ethical codes (Ballard Spahr LLP 2021).

As noted above, many have written on the harm created by the mishandling of the remains of individuals murdered in the MOVE community in the 1985 bombing. While professional sentiments are important, they must not crowd out the voices and the needs of the next of kin, family members, and community at large, and must acknowledge the harm and suffering that has been caused. This harm stems from systemic inequities in the United States and anti-Black racism, which then manifests in inequitable treatment from multiple institutions within the United States. Here, we focus on the role that biological anthropologists played in this horrific event and what steps can be taken to ensure that decedents, family members, and communities are treated with respect. To this end, we specifically discuss the findings and ramifications of the Tucker Law Group report, which is the larger and more comprehensive of the two reports (and note that the findings of the

Ballard Spahr LLP report are essentially the same). The findings have serious implications for anthropology, generally, and biological anthropology, more specifically.

We approach these issues as subject matter experts, having written and researched ethics and professionalism, particularly within the context of forensic anthropology (e.g., Passalacqua and Pilloud 2018, 2021a; Passalacqua, Pilloud, and Belcher 2019; Passalacqua, Pilloud, and Gruters 2014).

A SUMMARY OF THE TUCKER LAW GROUP REPORT FINDINGS

Despite significant negative public and professional reactions to the conduct of the anthropologists involved in this incident, the Tucker Law Group report found that the anthropologists involved in this incident did not violate any “professional, ethical or legal standards” but rather that these actions simply demonstrated “extremely poor judgment, and a gross insensitivity” (Tucker Law Group 2021, 57). Similar language was used in the report commissioned by Princeton, which states that the anthropologists “demonstrated exceedingly poor judgment and insensitivity to the ramifications of their actions and omissions” (Ballard Spahr LLP 2021, 7). For further clarification, as well as for context of this discussion, we present the numbered findings regarding the custody and use of the remains as outlined in the report by the Tucker Law Group in Table 1. We then discuss how this clearly unethical behavior was simply deemed poor judgment and did not rise to the level of violating any laws or ethical codes. We end with recommendations in regard to professional organizations and their ethical codes to more strongly oversee and condemn misconduct in the future.

Report findings within the context of anthropological ethics and legal precedents

The Tucker Law Group did attempt to examine ethical codes they believed *could* be relevant in this case and noted that there are “multiple professional associations with largely aspirational goals and statements of principle, but no specific rules of conduct or authority to sanction members who violate them” (Tucker Law Group 2021, 73). They explain that “unlike certain regulated professions such as law and medicine with licensure requirements, there are no authoritative bodies with the responsibility for promulgating ethical standards, interpreting them in specific situations and then sanctioning violations” (73).

The Tucker Law Group noted that while a number of relevant professional organizations issued statements about the incident, “none of the statements of condemnation issued by several of these organizations when this controversy arose identified the specific ethical standards of their associations that were violated and how they might apply to Mann and Monge’s conduct over 36 years” (Tucker Law Group 2021, 75). They further noted that because most relevant organizational ethics statements originated within the last twenty years, and the alleged misconduct first occurred prior to that (although it continued until 2021),

there were no ethical standards available to guide the actions of these anthropologists. That said, the Tucker Law Group did review the ethical codes of a number of anthropological organizations and discuss their relevance to the incident, which we will briefly summarize.

The ethical code of the American Anthropological Association (AAA) consists of seven Principles of Professional Responsibility. The AAA’s first principle is “Do No Harm”; however, the Tucker Law Group found that “the statement fails to state how it applies to the facts of this controversy that involves the continued custody and use of the MOVE remains by Mann and Monge” (Tucker Law Group 2021, 77). The AAA’s third principle is “Obtain Informed Consent and Necessary Permissions,” to which the Tucker Law Group found that “informed consent would arguably apply if there was no dispute about the identity of the remains and there were persons from whom consent could be sought. In any event, Monge did reach out to MOVE members to get their assistance in identifying the remains and presumably return them, but they refused” (Tucker Law Group 2021, 77).

The Tucker Law Group notes that the ethical code of the Society of American Archaeologists (SAA) is aspirational and has no principles that “relate specifically to the custody and use of the unidentified MOVE remains by either Monge or Mann” (Tucker Law Group 2021, 77). Also reviewed was the ethical code of the American Association of Biological Anthropologists (AABA). The report notes that the ethical code of the AABA is based upon that of the AAA; therefore, it also does not address the issues of custody or use of the remains. This report also reviewed the ethical codes of the Society of Forensic Anthropologists (SOFA) and the American Board of Forensic Anthropology (ABFA). Again, the Tucker Law Group found that each forensic anthropology organization “has no guidelines regarding the custody and use of unidentified human remains” (Tucker Law Group 2021, 77). Neither of the reports reviewed the ethical code of the American Academy of Forensic Sciences (AAFS), which is the primary organization for forensic scientists (and thus forensic anthropologists). While the AAFS has a preventative ethical code, it primarily focuses on misrepresentation of qualifications and probably would not have affected either reports’ conclusions.

Importantly, the Tucker Law Group also reviewed relevant legal provisions, but again found “their actions did not violate any of those legal provisions, either because the statutes or holdings by their terms did not apply, the requisite states of mind required for liability were not present, or the statutes of limitations had run on any potential claims” (Tucker Law Group 2021, 77). While complex, their findings are essentially that in Pennsylvania, while there are statutes (i.e., laws) regarding the mistreatment of human remains that would affect the next of kin’s right to sepulcher (i.e., the right to choose final disposition of their deceased loved one, be it burial, cremation, or some other form), they do not apply in this case. This is because in Pennsylvania, the conduct infringing upon the right to sepulcher must be *intentional*, unlike other states, such as New Jersey, where the threshold is simply *negligence*. While Pennsylvania does have another statute that states “a person who treats a corpse in a way that would outrage ordinary family sensibilities commits a second degree misdemeanor”

TABLE 1 Tucker Law Group Report Findings

1. After the Bombing of Osage Avenue, a dispute arose between the MEO [Medical Examiner's Office] and the MOVE Commission's experts over the identity of two sets of remains of MOVE children. The Commission's experts concluded that they were the remains of Katricia Africa and Delisha Africa, but the MEO disagreed with those findings.
2. The MEO retained Dr. Alan Mann, a physical anthropologist at the University, who was acting as a private consultant, to assist in the identification of the disputed remains. He was assisted in that effort by Dr. Janet Monge, who was his graduate student assistant at the time. Mann then issued a report that disputed the conclusions of the Commission's experts as to the identity of the remains. In early 1986, Mann took the remains of what the Commission concluded were those of Katricia to his office at the Penn Museum to conduct further tests. There is no credible evidence that Mann also took the remains that the Commission concluded were those of Delisha. Mann and Monge did not believe that the remains taken to the Museum could be conclusively identified as those of Katricia Africa.
3. After the examination in 1986, Dr. Mann conducted no further tests on the remains and stored them in his office from 1985 to 2001 when he retired from the University and joined the faculty at Princeton University. Mann left the remains at the Museum when he went to Princeton.
4. From 1986 to 2001, Mann made no effort to return the remains to the MEO or contact any MOVE family member.
5. The remains were never accessioned or formally added to the Penn Museum's collections.
6. Mann did not violate any specific prevailing professional, ethical or legal standards by the retention of the remains from 1986 to 2001.
7. Mann's retention of the remains from 1986 to 2001 after he was unable to identify them, and his failure to return them to the MEO, demonstrated extremely poor judgement, and a gross insensitivity to the human dignity as well as the social and political implications of his conduct.
8. From 2001 to 2014, the remains were stored in a file cabinet in Dr. Janet Monge's office. Monge is the current Penn Museum associate curator, who was a graduate assistant to Mann when he took custody of the remains. From 2014 to 2021, the remains were stored in Monge's Lab at the Museum" (Tucker Law Group 2021, 56–57).
9. In 1995 and 2014, Dr. Monge sought to identify and return the remains that the Commission's experts had concluded belonged to Katricia by contacting two of the MOVE family members, once through a third-party intermediary, but they refused to help her" (Tucker Law Group 2021, 63).
10. The remains were shown by Dr. Monge to graduate students, donors, and Museum personnel on at least ten occasions between 2014 and 2019.
11. The remains were used by Dr. Monge as a case study in a Princeton Online video course that she taught in 2019 as a visiting professor at Princeton.
12. Dr. Monge did not inform MOVE family members of and obtain their consent to use the remains in the Princeton Online video course.
13. The Museum did not have a policy on the retention and display or use of the remains and other non-accessioned remains as demonstrative artifacts or for other purposes.
14. Dr. Monge's retention and use of the remains as a demonstrative artifact did not violate the Museum's Policy Statement on Human Remains which was adopted in 2017 because it did not apply to the non-accessioned MOVE remains.
15. Dr. Monge did not violate any specific professional, ethical or legal standards by retaining and displaying the remains.
16. Dr. Monge's retention of the remains from 2001 to 2021 and their use in the Princeton Online video course demonstrated, at a minimum, extremely poor judgement and gross insensitivity to the human dignity and social and political implications of her conduct.
17. Although the remains were not formally a part of the Museum's collection, several persons, including a former director and deputy director of the Museum, observed some of the remains at some point during the time that they were at the Museum, and were aware of their provenance.
18. No one in a leadership position at the Penn Museum believed that having the remains at the Museum and their display to students, donors and others violated any Museum policies.
19. There is no evidence that any University Officer or Administrator was aware that Monge was in possession of the remains or of their use or display" (Tucker Law Group 2021, 66).

(18 Pa. C.S.A. §5510), this has a two-year statute of limitations, which the Tucker Law Group argued would not apply to Dr. Mann (as he was only responsible for the remains from 1985 to 2001, when he retired) or Dr. Monge (because she was only responsible for the remains from 2001 to 2019) (Tucker Law Group 2021, 77).

Finally, it is noteworthy that the authors of this report "did not interview Dr. Mann, however, because, despite several requests, we were unable to negotiate terms for the interview that were acceptable to his legal counsel" (Tucker Law Group 2021, 77). Additionally, no staff from the Philadelphia Medical Examiner's office were listed as interviewees, nor were any qualified practicing forensic anthropologists interviewed for this report who could speak to how medicolegal death investigations and forensic anthropological casework are conducted.

IMPLICATIONS FOR BIOLOGICAL ANTHROPOLOGY

As Josephson (2002, 4) states, "there is a big difference between what you have the right to do and what is right to do." As stated earlier, both reports found that Dr. Mann and Dr. Monge exhibited poor judgement; however, this conduct did not violate professional, ethical, or legal standards. To put it simply, because there were no ethical codes that specifically addressed the context of this incident (e.g., long-term curation of a forensic case with no purpose, display of an active forensic case without consent, improper chain of custody), then no misconduct occurred. Similarly, because Pennsylvania statutes require intent regarding infringing upon the right to sepulcher, and there was no evidence of intent, then no statutes were broken, and because the remains

were unidentified, consent for their use in displays (i.e., educational contexts like the Princeton Online video course) could not be obtained.

These findings demonstrate a serious failing of professional anthropological organizations to act as disciplinary leaders. The lacking appreciation of ethics and the weak nature of the available ethical codes do the entire discipline a disservice and open the door for incidents such as this without accountability (Passalacqua and Pilloud 2018). The potential for unethical practice harms individuals, families, communities, and the reputation of anthropologists generally and demonstrates an utter lack of respect for research participants and subjects of examination, alive or deceased.

Most anthropological organizations reviewed by the Tucker Law Group only have aspirational ethics codes, rather than preventative ethical codes, as we have previously noted (Passalacqua and Pilloud 2021a), meaning those professional organizations only provide guidance of motivational/beneficial behaviors and thus lack oversight of negative/detrimental behaviors (i.e., misconduct). For too long, anthropological organizations have allowed their members, and thus anthropological practitioners and professionals, to act without ethical oversight (Passalacqua, Pilloud, and Congram 2021).

Additionally, this tragic incident should serve as a stark reminder that employers such as universities look to professional organizations for guidance when it comes to standards of practice and conduct. In cases such as this, where those ethical standards are lacking, then no conduct can be considered misconduct and universities will put the blame on the discipline rather than accepting responsibility for employing unethical individuals. Having strong, thorough, and preventative ethical codes could allow employers to pursue ethics complaints based on those ethics codes, even if an individual left a professional organization. As organizational ethics codes are all presently membership based, and thus only apply to dues-paying members of these organizations (Passalacqua, Pilloud, and Congram 2021), if an individual were to be investigated for an ethics charge, they can simply quit the organization (or their place of employment) to avoid any ramifications. However, organizational ethical guidelines could serve as a guide for other organizations (to include future employers) to pursue investigations of unethical behavior.

Unfortunately, we must also keep in mind that lawyers who work for an organization of employment (like a university) serve to protect that organization and their staff from lawsuits, including ethical complaints (unlike the Tucker Law Group, which was an independently hired firm). That is, in these types of situations, the goal of organizational lawyers is to find loopholes and demonstrate a lack of wrongdoing whenever possible in order to protect organizational resources, including employees. We cannot rely on an employer to police itself when it may not be in that organization's best interest to do so.

RECOMMENDATIONS

Professional organizations exist largely to provide active and future (i.e., student) individuals in that profession opportunities to network,

organize, and serve and engage with the public. However, their role providing disciplinary leadership is also crucial. In addition to their interpersonal and professional development opportunities, professional organizations participate in disciplinary advocacy, outreach, public relations, and sometimes political lobbying (like pursuing legal requirements to practice, such as licensure, as noted in Tucker Law Group 2021, 73). Therefore, it is professional organizations that must lead the charge for change in our recognition and response to misconduct, which must be supported through active and constructive participation by their body of professional members (Fluehr-Lobban 2003).

There are two essential issues that must be addressed for the meaningful implementation of professional ethics. First, organizations' ethical codes must be detailed enough so that specific behaviors considered to be unethical are demonstrably so. Second, ethical codes must be enforceable and actually hold individuals accountable for their behaviors, with negative outcomes for individuals found guilty of misconduct (i.e., violating an ethical code).

All anthropological organizational ethical codes should be revised with these concepts in mind. Revisions should begin with a theory of ethics, or a structure for what is important for both aspirational and preventative behaviors (Appelbaum 1997, 2008). As demonstrated by the findings of the Tucker Law Group report, the preventative sections of ethical codes must be specific in regard to what constitutes misconduct. Clearly, the concept of "do no harm" is not enough when harm has been caused and the extent of the harm may be difficult to quantify or demonstrate. Because the nature of anthropology requires the interaction with, and often the use of, human subjects, ethical codes must engage with how human subjects are to be treated both in the short term (as research subjects) and the long term (through the curation of human remains and artifacts). Additionally, because the remains of deceased individuals are not considered human subjects (and thus are not covered under Institutional Research Boards [IRB]), the curation and use of the remains of humans (and other primates) must be addressed (Holland 2015; Passalacqua and Pilloud 2018). The right to sepulcher (Holland 2015), Rosenblatt's (2010) "human rights of the dead," and a number of the chapters in *Human Remains: Guide for Museums and Academic Institutions* (Cassman, Odegaard, and Powell 2006) and *Ethical Approaches to Human Remains* (Squires, Errickson, and Marquez-Grant 2020) provide a starting point in creating preventative and accountable ethical codes surrounding these issues.

Additionally, because ethical codes are tied to specific organizations and thus only apply to the members of those organizations, organizational membership (or lack thereof) plays an important role in establishing and policing the conduct of a profession and its body of practitioners. This means that each organization should consider the ramifications of its membership requirements, as well as what it means for a member to simply quit an organization rather than face an ethics investigation. A restructuring of professional organizations' membership categories based on qualifications or expertise could resolve these issues, especially if professional-level membership could be linked to a credential, such as certification, or to access to publication or

presentation venues. Essentially, if professional membership was tied to credentialing or scholarly presentation/publication, it would incentivize individuals to be members of appropriate organizations and disincentivize them from simply quitting rather than facing an ethics charge, as this could have ramifications for their professional credibility. Or perhaps organizations could still hold ethics hearings for nonmembers and make any disciplinary recommendations public as a record of misconduct for employers to consider more fully.

MOVING FORWARD

The gross mishandling of decedents from the MOVE bombing murder represents the continuation of racism, violence, and marginalization within the United States and its policing, its medicolegal death investigation system, and its anthropological institutions. The findings of these reports demonstrate this disappointing legacy by concluding that the individuals acting within their professional capacities did not violate any professional, ethical, or legal standards. Conduct that appeared reprehensible enough to require condemnations from various professional organizations was somehow allowed to occur by some of these same organizations due to their lack of forethought regarding ethical oversight and disciplinary leadership.

Herein, we have argued that the best way forward is for professional organizations to lead the charge in developing meaningful, specific, and enforceable preventative ethical codes. These organizations can serve as adjudicating bodies in cases where practitioners are facing allegations of misconduct. It is important for professionals (and students) to understand what practices are both aspirational and unethical, as outlined by their professional organizations, and for individuals to be held accountable by these ethical codes. Organizations must develop codes of ethical practice because they are meant to lead the discipline, and we cannot expect employers to understand or undertake such efforts. The development of these ethical codes needs to be overseen and vetted by the communities of practice from the broader discipline and members of relevant professional organizations. In order for ethical codes to be adopted, they must be widely accepted and created from a consensus-based perspective of disciplinary practitioners. Finally, organizations may benefit from a restructuring of their membership levels and requirements, creating stronger ties to professional organization membership.

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NOTES

¹ <https://anthropology.sas.upenn.edu/news/2021/05/03/statement-move-bombing-human-remains>.

² <https://anthropology.princeton.edu/news/legacies-violence-and-complicity-current-policies-and-guidelines>.

³ <https://bas.americananthro.org/news/591>.

⁴ <https://aba.americananthro.org/collective-statement-concerning-the-possession-and-unethical-use-of-remains/>.

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