

Tribal Perspectives in the War Against Looters

Education about the impact of looting on Native Americans is producing positive results. When law enforcement officers, prosecutors, and judges understand that these acts of desecration cause real harm to the Indian people, they gain a greater appreciation for the damage done by this “victimless crime.” Now when looters are caught, prosecutors are more likely to take the case and judges are more likely to take cases seriously.

CTUIR's Experience

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resource Protection Program (CRPP) started in 1987, focusing on protecting cultural resources on the reservation and within ceded lands located in northeastern Oregon and southeastern Washington. CRPP started with 3 people and has grown into an aggressive program with a staff of 25. The program is a mix of tribal cultural resource technicians, archeologists, and a tribal program manager who conduct surveys, monitor site impact, evaluate sites for listing in the National Register of Historic Places, and engage in other cultural resource stewardship activities.

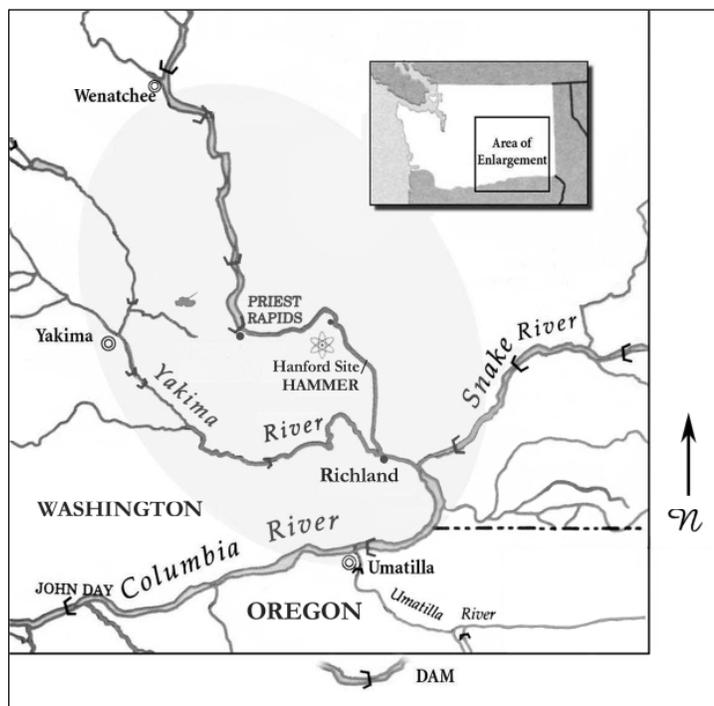
CRPP has focused on the battle against looting since the mid-1990s. CTUIR along with other tribes implored agencies to comply with cultural resource protection laws. Often agencies said that they didn't see much looting, that looting was not a problem in the mid-Columbia River region. We pointed out that they did not see the looting because they were not out on the river looking for it. We saw it every day. We showed them the

looting and pointed out the laws and regulations. Then agencies began taking looting seriously.

Tribes and archeologists in the Northwest began to realize that one of the problems with getting convictions under protection laws was that the local law enforcement community did not know cultural resources laws. Various organizations began sponsoring 2- and 3-day classes on the Archaeological Resources Protection Act (ARPA). Local governments were becoming aware of looting. A local county sent one of its detectives to the Federal Law Enforcement Training Center's (FLETC) Archeological Resources Protection Training Program (ARPTP) and local counties began training their officers about cultural resource laws.

In 1998, we attended the ARPTP class and found that it was thorough, good, and long (5 days), but there was one problem: the instructors did not address Native American concerns. We

Map of the mid-Columbia River region of Oregon and Washington.



A crime scene team investigates a simulated looted housepit during a class in 2000 at the HAMMER Cultural Resource Test Bed in Richland, WA.

did not learn about the impacts that looting village sites and disturbing the graves of our ancestors had on the Indian people. Instead, instructors talked about the loss of data to archeologists and the collective loss of heritage to the United States. This information needed to be enhanced by concern for Native American values.

A New Approach

In 1998, 6 weeks after taking the FLETC class, we had developed our own law enforcement class on catching, prosecuting, and convicting archeological looters. The training team included two prosecutors, a detective, tribal members, a tribal archeologist, and tribal elders. October 2001 marked the fourth year of this training, which included a mix of tribal and nontribal presentations and extensive field work on simulated archeological sites, recently built and then looted by actors posing as suspects.¹ The class has grown from 32 participants to over 90; about half of the participants are tribal members.

Our training began through a partnership between the Benton County, WA, sheriff's department and CTUIR. Our partnership evolved through looting cases. In one successful 1998 case, two men were accused of looting Indian artifacts from Plymouth Island, an important prehistoric village site located across the Columbia River from Umatilla, OR. The arresting deputy did not find the men in the act of digging but suspected them of poaching. He approached them near their car and discovered that they had digging equipment, artifacts, and drugs. A search of their house resulted in the seizure of 11,000 artifacts.

The sheriff's department asked CTUIR to help search the house. We inventoried all of the artifacts, and called in tribal elders to identify the most significant artifacts and to help educate the prosecutor about the cultural significance of the collection. Through this experience, the officers and prosecutor were able to experience the damage firsthand. They saw that someone has been harmed by the destruction that looting had



caused. No longer could local authorities view looting as a minor, victimless crime. When Native Americans were brought into the process to explain the damage that results from looting, the impact of looting became severe.

That Native Americans are hurt by these senseless acts of destruction is not a secret. National Geographic Magazine, for example, has discussed impacts on Indians in their looting stories.² FLETC has described these impacts in its video, "Assault on Time." Much publicity has surrounded the issue of impacts on Native American from unearthed burials.³ Archeologists, however, have not often included Native American perspectives in the battle against looters.⁴ The source of underlying conflicts about ownership of prehistoric dwelling sites and remains of Indian ancestors is open to debate.

Last year we asked a Benton County Superior Court judge to speak at our tribal archeological resources protection training about his perspective on cultural resource crimes. His short presentation was widely discussed. He referred to the Plymouth Island case as an eye opener for him. His words touched many.

We gave the victims a chance to speak and they spoke about the cultural significance of the site in question....[The looting] was more than just an intrusion; for the victim it was a burglary.

The judge told law enforcement officers that they needed to understand the law from all sides and to appreciate the reasons for these laws.

We recently gave a presentation on looting awareness to Northwest region tribal court

judges during their annual conference. The positive response from the judges was overwhelming —

You need to strengthen cultural resource codes on the reservations [because only a few tribes have a cultural resource tribal code].

Quotes from the court records of actual ARPA cases really made us feel it in our hearts.

Continue doing exactly what you are doing.

We didn't know all of this was going on.

The great need for training has driven us to continue exploring new ways to sensitize people to the impacts of looting on Native Americans.

Recommendations

We have several suggestions for combatting looting, many of which can be addressed locally.

Be proactive. Don't wait until there is a looting event. Develop relationships with prosecutors and judges. Meet them. Get involved in cases. Make presentations at conferences, especially those attended by lawyers, prosecutors, and judges. Sherry Hutt, a Superior Court judge in Arizona, reminds us to "educate all lawyers on aspects of cultural property law. From the ranks of the lawyers come the judges. It's good to get them while they're young." Many judges are unaware of the cultural resource laws and their importance to Native Americans.

Emphasize to the public and law enforcement that looting harms people, especially Native Americans. In court cases where the only victim represented is an archeologist who has lost some data, the case may not be very compelling. Judges often are reluctant to convict nice guys in suits with not-guilty pleas. Even when the evidence is convincing that an archeological crime was committed, judges and juries cannot help but compare the harm to other cases of theft, battery, rape, or extortion, where "real people" were hurt.

Use effective language in court. Kristine Olson, former U.S. attorney, District of Oregon, suggested that we need to use strong language to correctly describe what is going on. Say "stealing artifacts" instead of "taking artifacts," "grave robbing" not "disturbing Indian skeletons," "desecrating an ancient village" not "disturbing a prehistoric archeological site." Such words resonate with juries and better describe the nature of the crimes.

Use tribal members to convey the message.

Native Americans are often quite effective in communicating the impact of a crime. They are very good at sharing a cultural perspective that many non-native people find compelling. Videotape their comments for use in presentations. One 30-second video segment seen in our region shows a Wanapum Band leader, Rex Buck, Jr., saying —

How would you feel if I came to your home and took some of your heirlooms that you've had from the past that maybe your great grandfather passed down from generation to generation? And you have . . . the feeling that it's priceless. It can't be replaced. . . We can't replace anything here. We have feeling [for the] land [and] everything that is in the past. Because it's our ancestors, it's our people.

Emphasize cultural significance in addition to importance of scientific data. The court must understand that there are other consequences to looting than those to archeologists, and other uses of the data beyond science. In the Plymouth Island case, the defense hired local archeologist James Chatters as an expert witness. He argued that the artifacts were no longer scientifically important because they had lost their archeological context. The artifacts had been found on the shore, eroded out of their original stratigraphic context, and now were useless. CTUIR responded with a letter from the tribal archeologist who argued that the artifacts and the site were culturally significant to the tribe and that the loss of stratigraphy was irrelevant. The looters were convicted and sentenced.

Call the court's attention to the fact that stolen artifacts are more than buried debris. Tim Simmons, assistant U.S. attorney, Portland District of Oregon, explains that the judge must recognize that artifacts are sensitive objects that should be returned to the tribes, regardless of the outcome of the case.

Archeology curricula need to include more education on Native American perspectives. CTUIR has made a commitment to several university anthropology departments to help educate their students on the cultural significance of Native American sites.

Conclusion

Many successful convictions in Benton County are due to the commitment of local officials, the partnership between CTUIR and the

sheriff's department, and the tribe's aggressive commitment to the partnership. It is up to the archeological community, Federal land managers, the judicial system, and Native American communities to collaborate to combat looting and vandalism.

Notes

- ¹ For more information on the training, see Julia G. Longenecker and Jeff Van Pelt, "Training for Law Enforcement, A Tribal Perspective," *CRM* 22, no.5 (1999): 17-18.
- ² Harvey Arden, "Who Owns America's Past," *National Geographic Magazine* 175, no. 3 (1989): 376-392.
- ³ See Roger Downey, *Riddle of the Bones: Politics, Science, Race and the Story of Kennewick Man* (New York: Copernicus, 2000); David Hurst Thomas, *Skull Wars: Kennewick Man, Archaeology and the Battle for Identity* (New York: Basic Books, 2000); and Roger Echo-Hawk and Walter Echo-Hawk, *Battle Fields and Burial Grounds: The Indian*

Struggle to Protect Ancestral Graves in the United States (Minneapolis: Lerner Publishing Company, 1994).

- ⁴ Society for American Archaeology, *Save the Past for the Future II: Report of the Working Conference* (Washington, DC, 1994).

Julie Longenecker is an anthropologist with CTUIR's CRPP, a position that she has held for the past 5 years. She has an MA degree in anthropology from the University of Idaho, 25 years of field experience, and is a registered professional archeologist. She is involved in developing and conducting training programs on cultural resources protection.

Jeff Van Pelt is the cultural resource manager of the CTUIR's CRPP. He is involved in contract negotiations, consultations, and repatriations. As of 2000, he is acting director of CTUIR's Department of Natural Resources. He helps to protect archeological sites and culturally sensitive resources by developing and conducting training programs.

Illustrations by Julie Longenecker.

Garry J. Cantley

Bureau of Indian Affairs Training on Archeological Resource Crime

Anyone who has dealt with the Archeological Resources Protection Act (ARPA) and archeological resource crimes soon realizes the complex relationships involved in successful prosecution. When applied to American Indian lands, ARPA presents additional advantages and challenges.

Perhaps the greatest advantage of pursuing ARPA prosecutions on tribal lands is the strong connection between reservation populations and their archeological resources, and the responsiveness of the nation's diverse tribes to the overall goals of ARPA. Another advantage is that tribal courts offer an additional venue for prosecuting archeological resource crimes.

Ironically, a big challenge to applying ARPA on Indian lands often stems from articulating

ARPA's goals, which may reveal the conflicting messages of what archeology represents to the Indian community. Moreover, because of complexities in law enforcement jurisdiction on Indian lands, which can include Federal, tribal, State, or even county law enforcement agencies, there is often a disparity in knowledge of archeological resource crimes. Because of staff turnover, law enforcement personnel require periodic and consistent instruction about ARPA and the elements of successful prosecutions. Although not unique to Indian lands, another challenge is how briefly the antilooting message remains in peoples' minds. The fact that looting is illegal and should be reported has not become firmly planted in the consciousness of the Indian population or the Nation as a whole.