

Tracy L. Rogers,¹ Ph.D.

Crime Scene Ethics: Souvenirs, Teaching Material, and Artifacts*

ABSTRACT: Police and forensic specialists are ethically obliged to preserve the integrity of their investigations and their agencies' reputations. The American Academy of Forensic Sciences and the Canadian Society of Forensic Science provide no guidelines for crime scene ethics, or the retention of items from former crime scenes. Guidelines are necessary to define acceptable behavior relating to removing, keeping, or selling artifacts, souvenirs, or teaching specimens from former crime scenes, where such activities are not illegal, to prevent potential conflicts of interest and the appearance of impropriety.

Proposed guidelines permit the retention of objects with educational value, provided they are not of significance to the case, they are not removed until the scene is released, permission has been obtained from the property owner and police investigator, and the item has no significant monetary value. Permission is necessary even if objects appear discarded, or are not typically regarded as property, e.g., animal bones.

KEYWORDS: forensic science, artifacts, crime scene memorabilia, ethics, souvenirs, teaching specimens

How much would you pay for "Actual dirt from the Branch Davidian compound, scooped up right after the massacre, bagged and affixed to a descriptive certificate of authenticity on parchment paper. Numbered # 61 of 100" (D & D's Bizarre Serial Killer Memorabilia website, personal communication)? Materials allegedly from crime scenes are common on commercial websites selling artifacts and collector's pieces, despite California and Texas state laws that prohibit profiting from crime scene memorabilia (1). Susan Howley, director of public policy at the National Center for Victims of Crime, an advocacy group in Washington, DC, sums up the ethical position of the group: "It's an affront to the dignity of victims when crime scene memorabilia is [sic] traded" (1).

Most professionals in the forensic sciences realize it is illegal to remove objects from a crime scene without authorization. There are at least two laws relevant to this issue. First, it is a legal offense to alter a crime scene, which includes taking items from the site. Second, property rights remain in effect for scenes under police custody. The police may seize items of potential evidentiary value provided a search warrant has been properly executed, but anything removed from a scene on private land without authorization is considered theft. Under the *Criminal Code of Canada* (Part 9, Section 322) a person is guilty of theft if that person

... fraudulently and without colour of right converts to his use or to use of another person, anything, whether animate or inanimate, with intent,

(a) to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it;

(b) to pledge it or deposit it as security;

(c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform; or

(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted. (2)

It may seem obvious from both a legal and ethical point of view that one must not remove objects from crime scenes without authorization, particularly if one envisions items such as televisions, automobiles, and jewelry. It is less obvious when one considers belongings usually deemed lost, for example small change found on the sidewalk, or objects not typically regarded as private property, such as stones and shells. Some forensic specialists have no personal or professional interest in removing objects from crime scenes, while others may wish to retain interesting samples (fibers, plants, insects, animal bone) for teaching and training purposes. When the law is explicit ethical decisions are not always required to guide behavior, but the variety of scene types and circumstances facing forensic investigators produces many ambiguous situations. Guidelines and protocols are necessary to protect the credibility of the investigators and the integrity of the case.

Hypothetical Examples

Consider a hypothetical crime scene where money is found in the course of a search. On private property the nature of the case will determine if it is necessary to seize the money. If it is not pertinent to the crime, the money will be left at the scene. In drug cases where money may provide important evidence, it is counted and seized by one police officer in the presence of another. At a crime scene on public property money is seized and made an exhibit, regardless of the denomination and its potential significance to the case. This is true for any item of monetary value located at a crime scene on public property (S/Sgt Martin Thompson, Sgt Ross Spenard, and Detective Fred Harding, personal communication). Each police agency has a protocol for disposing of exhibits of no forensic concern when an owner cannot be identified, including donating it to charity, or holding an auction. Officers are trained in proper procedures, and protocols are updated and circulated as required (S/Sgt Martin Thompson, personal communication).

¹ Department of Anthropology and the Study of Religion, University of Toronto at Mississauga, Mississauga, Ontario, Canada.

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Policy explicitly defines the actions of law enforcement officers under these circumstances.

Forensic anthropologists often assist with, or direct, large-scale searches for human remains that involve numerous volunteer searchers. Some volunteers have professional affiliations, are police academy recruits, or members of search and rescue teams. Others are civilian volunteers, including local residents, students from anthropology and archaeology departments, and members of metal detector clubs. Some participants may not be aware of the legal ramifications of removing items from crime scenes and may not think twice about pocketing coins that do not appear to be part of the scene. During the orientation and briefing it is necessary to tell searchers not to remove anything from the site, even if the object appears inconsequential, and apprise them of the laws pertaining to crime scene investigation.

During large scene searches the forensic significance of items may be assessed by investigators and experts as the search is underway. Objects of potential interest to the case and items having monetary value are made exhibits, photographed, and collected. According to the law, all valuable/expensive objects are presumed to have an owner. The law requires the finder of a valuable object to make a reasonable effort to locate the owner, regardless of where the object is found (e.g., a parking lot, the side of the road, or a crime scene) (2). Objects of no monetary or evidentiary value may be left behind as the search line progresses forward; these items could include containers with dates outside the scope of the investigation, animal bone, golf balls, garbage, etc. After the search is complete and the scene is released, the participants may legally return and collect items left behind, provided the objects were: (1) assessed by the officer in charge and deemed insignificant, and (2) found on public land.

Under these circumstances there is no law preventing the person from selling the object. The police become involved if the vendor claims the object is related to a crime. If the claim is true, the person responsible could be charged with obstruction of justice and, in some states, with selling crime scene memorabilia (1). If the claim

is false, the vendor could be charged with fraud. Although it is legal in this example to remove an object from a former scene, the issue raises serious ethical questions. While this behavior may be legally acceptable for both civilians and police officers, the latter are held to a higher ethical standard. The integrity of the police force must be upheld at all times; thus officers of the law must maintain the spirit of the law, as well as the letter of the law. By preventing even the appearance of impropriety the professional integrity of the police is maintained. For this reason, police officers who return to former crime scenes to collect discarded objects for personal reasons may be reprimanded or dealt with stringently for conduct unbecoming to an officer (Sgt Spenard, personal communication). Should a similar standard be applied to other forensic specialists? Consider the damage a defense lawyer could do to an expert's reputation if it were known the expert sold items obtained from former crime scenes.

Some investigators would never consider removing objects from scenes, or former scenes, for personal reasons, but may have an entirely different opinion about collecting specimens for training and teaching purposes. Should the reason for wanting an object influence the ethics involved in taking it? Suppose the items in question are natural, such as a rock, shell, or animal skull. The rock is of interest to an expert because it is unusual, but the shell and skull are of interest for training and teaching purposes. When searching for human remains it is common to find objects that can be mistaken for bone (Figs. 1a, b, c). These items make excellent teaching aids for students learning to recognize bone, particularly if the objects are soil-stained or burned. It is also common to find animal bone at outdoor scenes. These are also extremely useful for teaching purposes. Animal bone can be scattered across a mock scene for students to recover during practice searches; the morphology of animal bone can be compared with human remains to illustrate differences between the two, and animal bone can be sectioned to examine histological structures that distinguish it from human bone at the microscopic level. The potential benefits of obtaining these items may be significant, but does this justify the removal of



FIG. 1a—Coconut shell mimics parietal bones.

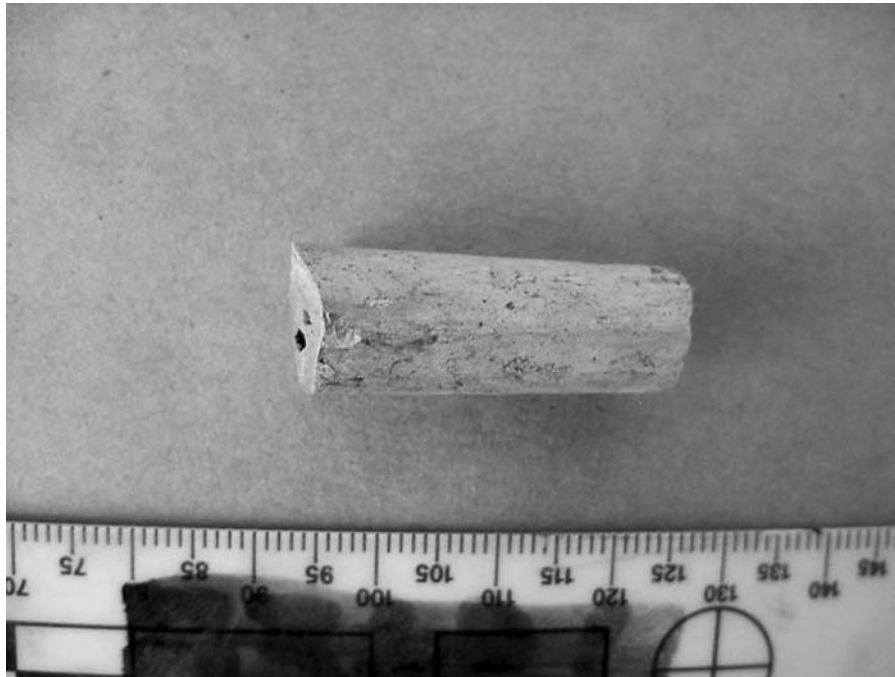


FIG. 1b—Clay pipe stem mimics fibular shaft.

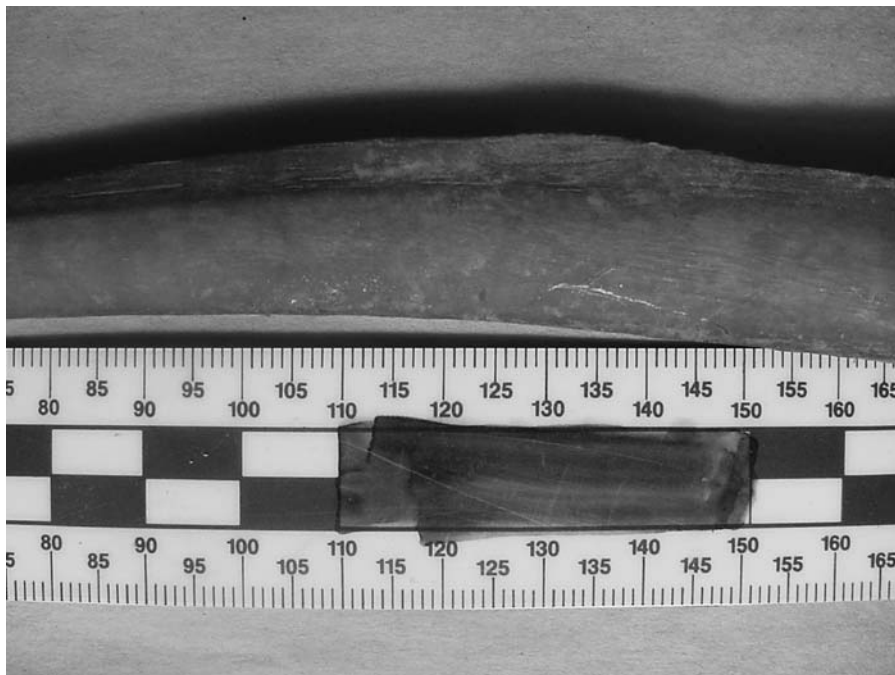


FIG. 1c—Black-tail deer rib mimics human rib.

these objects from a crime scene, or former crime scene? Is it more acceptable for the expert to remove the items intended for teaching purposes than the rock that is coveted for its beauty?

Nonhuman bone and objects that can be mistaken for bone are particularly problematic at a crime scene. If they are left on the site searchers may be distracted by their presence, continually “rediscovering” the bones as they travel back and forth between the operations area and the search line during lunch or breaks. To prevent confusion the objects must be collected. After the search is complete it is equally problematic deciding what to do with the

items. They are of no forensic significance, but if left at the scene after the investigation they could be “rediscovered” by someone at a later date, or moved by dogs to entirely new locations where they may be “found” and resubmitted for analysis as a new case of unknown remains.

To prevent complications these objects are typically examined by a forensic anthropologist, determined to be of no forensic value, collected at the site, and with the permission of the investigating officer either retained for teaching purposes or destroyed to prevent them from becoming part of a future investigation. Such a solution

runs into neither legal nor ethical problems when the property under investigation is public. On private property there is the added complication of ownership. In most cases, owners are only too happy to have someone get rid of chicken, cow, pig, or deer bone found on their property.

Consider one last scenario. Suppose an historic artifact, like a bottle, was found during a search. In British Columbia, Canada, *The Heritage Conservation Act* protects all archaeological resources and artifacts predating 1846 (3). If a searcher were to find a bottle in the hole left by a blown-over tree and the date on the bottle read 1880, would it be ethical for that person to remove it? It is on public property, is not relevant to the crime scene, and is not protected by the Heritage Act. It may be part of a larger historic site. Should it be disturbed? If it is left in place, bottle collectors may find it and proceed to destroy the site searching for more bottles. A private citizen may have no legal, ethical or moral qualms about taking the bottle. Forensic anthropologists and archaeologists are under ethical obligation to deal with the situation differently. The archaeologist's obligation is set out by the Society for American Archaeology (SAA): "The use of the archaeological record [in situ material and sites] should be for the benefit of all people. . . archaeological materials are not commodities to be exploited for personal enjoyment or profit" (4).

Should forensic anthropologists be held to the same ethical standards as archaeologists? In order to do their job properly forensic anthropologists must be able to distinguish modern remains of potential forensic significance from archaeological remains. This is achieved by evaluating the condition of the bone, cultural modifications of the body, and the burial context. Most forensic anthropologists also conduct skeletal analysis of archaeological remains as part of larger archaeological research or consulting projects. These close ties with archaeology mean that many forensic anthropologists are members of archaeological associations and are, therefore, bound by the same ethical considerations.

Discussion

The last example does not present a serious dilemma as the SAA is explicit on the subject of its members' behavior. The other examples are more difficult, because the American Academy of Forensic Sciences (AAFS) and the Canadian Society of Forensic Science (CSFS) do not address the issue of souvenirs and teaching collections, or behavior at crime scenes. The AAFS has four rules in its *Code of Ethics and Conduct*: (1) refrain from professional or personal conduct that reflects badly on the academy; (2) do not misrepresent your education, training or area of expertise; (3) do not misrepresent the data upon which an expert opinion or conclusion is based; and (4) do not issue statements that appear to represent the AAFS, without the express permission of the Board of Directors (5).

The CSFS provides a more detailed list of *Rules of Professional Conduct* (6). Three rules relate to responsibilities to the CSFS; ten address responsibilities to clients, employers, or the court; and four consider responsibilities to the profession. Rule 5 deals with items of potential evidentiary value, but none address items of no evidentiary significance. Number 14 says members will "carry out their duties in a professional manner and strive to be worthy of the confidence of the public" (6). The meaning of that statement is left open to interpretation.

When professional societies do not have specific principles or rules of conduct that apply to a situation, the investigator relies on

personal ethics for guidance. Provided there are no legal concerns about taking objects from former crime scenes, e.g., the scene has been released and is not on private property, some of the factors one might consider when deciding to take or leave objects include: the value of the item; a potential claim to ownership, in contrast to items that have been lost/abandoned, or discarded; the purpose for taking the object (souvenir versus teaching aid); and intent to profit from the object.

Perhaps a blanket rule should be applied: "Never take/keep objects that are found in the course of a search, recovery, or investigation, even if the object is of no forensic value, the scene has been released, and the objects are not on private property." This conservative approach to the issue ensures that both the integrity of the site and the reputation of the investigator are preserved. It would, however, preclude opportunities to build valuable teaching collections. Another approach is to permit the retention of objects with educational value, provided: (1) it is not of significance to the case; (2) it is not removed until after the scene is released; (3) there are no other legal concerns—all permissions have been obtained (property owner and police investigator), and the item has no significant monetary value. Obtaining permission is important even when objects appear to have been thrown into the garbage, or are natural items not typically regarded as property, e.g., animal bones. These guidelines strictly limit the type of object that may be removed from a scene, when the item may be removed, and who must be notified and give permission for the object to be removed.

According to the CSFS, forensic scientists should carry out their duties in a professional manner and strive to be worthy of the confidence of the public (6). To some degree, interpreting this rule with respect to the issue of souvenirs and teaching specimens will depend on personal beliefs—where one feels comfortable drawing the line and how the terms "professional manner" and "professional behavior" are perceived. Keep in mind, however, that when subpoenaed to testify as an expert witness, the way others perceive an expert is more important than the way the expert perceives herself/himself. Once credibility as an expert witness is lost, it can be difficult and sometimes impossible to recover. It is necessary to make a considered decision about one's policy regarding removing objects from crime scenes to ensure that one's actions are both legally and ethically defensible. By following established guidelines it is possible to benefit from the potential educational value of the objects, while behaving in a professional manner that cannot be misconstrued by a lawyer hoping to discredit expert testimony. As no such guidelines currently exist, this paper is presented in an effort to generate discussion and resolution of these issues. In the absence of association guidelines it is imperative that one's actions be transparent to the public and beyond reproach. Permission must be sought from both the investigating body and the property owner before any item is removed from a crime scene or a former crime scene.

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Additional information and reprint requests:
Tracy L. Rogers, Ph.D.
Department of Anthropology and the Study of Religion
University of Toronto at Mississauga
3359 Mississauga Road North
Mississauga, Ontario L5L 1C6
Canada