

PREAMBLE

This policy was developed in response to contemporary collections stewardship and ethical standards, and in compliance with Smithsonian Institution Collections Management Policy SD 600. Ultimately, this policy will be incorporated into NMNH's Collections Management Policy.

PURPOSE

Overview and Applicability. The National Museum of Natural History (NMNH) acknowledges and complies with the [Smithsonian's Ethical Returns and Shared Stewardship policy](#) (April 29, 2022) and accordingly has developed this policy to guide NMNH in the stewardship of its collections and the fostering of relationships with communities. This policy applies to NMNH biological, cultural and geological collections, excluding human remains. U.S. Native American repatriation policy and procedure per the NMAI Act of 1989 (updated in 1996) has priority for those collections, and other policies will be developed for remains not covered by the NMAI Act. Associated collection data, images, and documentation are also subject to this policy. NMNH recognizes that information currently available under the Smithsonian's Open Access Initiative may need to be retracted or otherwise included in shared stewardship terms.

Acknowledgement and Intention. We acknowledge that the unethical removal of items from communities has caused harm to the well-being of communities and that continuing to hold items separately from communities may continue to cause harm. We aspire to authentic, mutually beneficial relationships with communities because we believe they lead to improved collection stewardship, better research, and social justice. We are committed to transparent and respectful engagements, meaningful consultation, collaboration, and prompt responses to inquiries and requests. NMNH welcomes the opportunity to discuss and act on shared stewardship agreements.

Definitions

- **Access** refers to physical examination, research, sampling, tour viewings, access to analog and digital data, or other uses
- **Claims** apply only to repatriation requests per the NMAI Act and NMNH's Repatriation Policy
- **Ethics** are principles that govern behavior or the conduction of an activity; connected with beliefs and principles about what is right and wrong
- **Ethical Returns*** are the act of giving back to a more rightful owner based on ethical considerations when not required by law. In making an ethical return, technical legal defenses such as statute of limitations or laches which may be available are not asserted as a means to retain ownership or possession.
- **Inquiries** are requests for information
- **Provenance/provenience** refers to the information about the original location, source, or rights to an item or collection.
- **Requests** come from parties with standing who are asking for action
- **Returns** result in an action whereby the museum relinquishes ownership status and stewardship responsibilities
- **Shared stewardship** agreements result in changes to ownership status and may result in changes to physical care, access, and use practices

- **Standing** is the requesting party's authority to make a request, agree to stewardship terms and receive returns.

* Source is SI Ethical Returns Working Group definition

NMNH Parties

- *Director*
- *Associate Director and Chief Scientist (ADCS)*
- *Assistant Director for Collections (ADC)*
- *Registrar*
- *Departmental Chair(s)*
- *Curator(s)*
- *Ethical Stewardship Research Team (ESRT)*

AUTHORITIES and RESPONSIBILITIES

As authorized by the Smithsonian's Shared Stewardship and Ethical Returns Policy, NMNH may enter into **shared stewardship arrangements** based on ethical considerations. The NMNH may also deaccession and return collections in appropriate circumstances based on ethical considerations, henceforth referred to as "**Ethical Returns.**"

The Director, in consultation with the National Collections Program (NCP), the Office of the General Counsel (OGC), and the Office of the Under Secretary for Science and Research, will make the final decision on returning items to requestors. Where relevant, decisions to return items will follow the monetary value thresholds in NMNH's Collections Management Policy and will follow current deaccessioning policy and procedure.

The Director delegates responsibility for responding to inquiries and requests to the Ethical Stewardship Research Team (hereinafter the ESRT), a part of the Office of the Registrar and under the oversight of the Assistant Director for Collections. The ESRT initiates and oversees the provenance research needed to respond to an inquiry or a request.

Findings and final determinations are provided in writing to the NMNH parties listed above, the NCP, OGC, and Office of the Under Secretary for Science and Research, and will include all references or documents used in the provenance research process. Records of inquiries, requests, decisions and actions will be maintained by the Office of the Registrar.

Findings are reviewed by the curator in charge of the relevant collection, who will make a recommendation that is reviewed and approved by the departmental Chair, Assistant Director for Collections (ADC), Associate Director and Chief Scientist (ADCS), and Director.

Upon notification from the Director, initiation and negotiation of Shared Stewardship agreements will be made by the relevant curator(s), the Chair, the ADC, ADCS, and Director. No other parties have authority to initiate agreements or conduct negotiations with requesting parties.

Decisions on shared stewardship that result from a request for ethical return must be approved by the Under Secretary for Science and Research, in consultation with the Office of General Counsel and the National Collections Program.

The NMNH Collections Program will develop and maintain a public website with information on how to make an inquiry for information or a request for shared stewardship or return, and this policy.

The NMNH Collections Program is responsible for implementing decisions and ensuring that all relevant NMNH parties are consulted and included, as appropriate, in actions.

APPROVALS and DENIALS

The Requestor will receive a copy of the findings and final determination, with the notification of approval or denial of the request including the basis for the decision.

If a request for ethical return is denied, the NMNH may offer shared stewardship terms.

If a request for a specific shared stewardship term is denied, the NMNH will communicate with the requestor to explore whether other terms are mutually agreeable.

If the request results in a denial of both ethical return and shared stewardship, the requestor will receive the findings, final determination, and decision including a narrative describing the basis for the decision.

DETERMINATIONS

Decisions on **Standing of the requesting party** are made by the Director using a report that addresses the factors below. Requestors are encouraged to provide information in support of their assertion of Standing. A decision shall be made considering the facts and circumstances of the request.

1. What is the nature of the requestor's relationship to the item?
2. Are there competing requests regarding the item?
3. Were any prior requests for return not governed under then-current policy?
4. Is the requestor an official representative of the cultural group or home community where the item(s) originated?
5. Is the requestor authorized to act on behalf of a cultural group?
6. Is the requestor a lineal descendant of the person(s) who owned the item?
7. Do other groups potentially have an interest or have standing relative to the item(s) in question?

Determinations on the **ETHICS** of an acquisition are made by the Director using recommendations by the Curator in charge of the relevant collection, the departmental Chair, the Assistant Director for Collections, and the Associate Director and Chief Scientist. Recommendations will be based on a report from the ESRT that addresses the factors below.

1. How the item was originally obtained
2. How the item was acquired by the Smithsonian

3. Is there any evidence that the item(s) was legally acquired but was acquired forcibly, from a party under duress, through coercion, or without consent from the rightful owner(s)?
4. Is there any evidence that an unfair price was paid for a purchased item?
5. Would retaining the item perpetuate harm?
6. Would returning the item to the requester redress the harm or unethical circumstances of acquisition?

Ethical Determinations will NOT be based upon:

- Requestor's ability to meet NMNH standards for care
- Requestor's intended use or management practices
- The artistic, historical, cultural or monetary value of the requested item(s).

NMNH will notify other SI units holding similar items of inquiries and requests and will share the results of inquiries and requests unless otherwise constrained by confidentiality or a shared stewardship agreement by contributing to the Smithsonian's internal *Shared Stewardship and Ethical Returns Tracking System*.

Items under consideration for return or shared stewardship terms will be sequestered or otherwise restricted from ongoing research projects, access, destructive sampling, or other uses until the final disposition of the inquiry/request is made.

DECISIONS

All decisions will be communicated to the inquiring or requesting parties in writing. Denials will include the basis for the decision.

Documentation of all decisions will be filed in the Office of the Registrar, with entries for each relevant collection item made in NMNH's collections information system.

In acting upon decisions to return items or engage in shared stewardship, NMNH welcomes visits by requestors to prepare items for return or initiate shared stewardship terms such as changes in physical care practices. Visits will be supported with access to NMNH spaces (e.g. the MSC smudging room) and resources if the NMNH has the ability to do so.

Shared Stewardship agreement monitoring, if needed, will be provided by the relevant Curator(s) and the Office of the Registrar, including responsibility for any ongoing communications that support the Agreement.

INFORMATION SHARING

NMNH's receipt and response to inquiries and requests for ethical returns and shared stewardship are a matter of museum and public record. However, NMNH will ask the Requesting Party about their wishes regarding any publicity or other public notice regarding the inquiry, request and ultimate action. NMNH will maintain a publicly accessible website that provides information on how to send an inquiry or request and provides information as agreed with recipients on completed ethical returns.