Unmarked Human Burial Site Policy in Louisiana: Pre-Columbian Context and Community Perspectives

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UNMARKED HUMAN BURIAL SITE POLICY IN LOUISIANA: APPLICATION IN PRE-COLUMBIAN CONTEXT AND COMMUNITY PERSPECTIVES

A Thesis
Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Masters of Arts

in

The Department of Geography and Anthropology

by
Sadie Schoeffler
B.A., University of Louisiana at Lafayette, 2019
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<tr>
<td>Area of Interest</td>
<td>AOI</td>
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<tr>
<td>Cultural Resource Management</td>
<td>CRM</td>
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<tr>
<td>Culturally Unidentifiable</td>
<td>CUI</td>
</tr>
<tr>
<td>Federally-recognized tribe</td>
<td>FRT</td>
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<tr>
<td>Louisiana Archaeological Society</td>
<td>LAS</td>
</tr>
<tr>
<td>National Environmental Policy Act (1969)</td>
<td>NEPA</td>
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<tr>
<td>National Historic Preservation Act (1966)</td>
<td>NHPA</td>
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<td>National Museum of the American Indian Act (1989)</td>
<td>NMAIA</td>
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<td>Native American Graves Protection and Repatriation Act (1990)</td>
<td>NAGPRA</td>
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<tr>
<td>State Historic Preservation Officer</td>
<td>SHPO</td>
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<td>SRT</td>
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<td>Tribal Historic Preservation Officer</td>
<td>THPO</td>
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<td>Tribe not recognized by either federal or state governments</td>
<td>NRT</td>
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<tr>
<td>Unmarked Human Burial Sites Preservation Act (1992)</td>
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ABSTRACT

Since the passing of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), state governments have implemented similar policies that allow for Native American tribes without federal recognition to petition for the repatriation of human remains and objects significant to their culture (Seidemann, 2010). Per La. R.S. 8:671-681, which is the Louisiana Unmarked Human Burial Sites Preservation Act of 1992 (UBA), the Division of Archaeology in the Louisiana State Office of Cultural Development is responsible for overseeing the protection and preservation of unmarked burials. These burials are often of pre-Columbian or historic cultural and temporal context, which warrants consultation and collaboration with associated descendant communities regarding their disposition. Research shows that collaboration with Native American communities in archaeological investigations ensures ethical research practice and fosters a more holistic repatriation process and treatment of human remains regardless of ethnicity, culture, or date of interment (Colwell-Chanthaphonh & Ferguson, 2004; Colwell-Chanthaphonh et al., 2010). This thesis documents perspectives on the UBA of Native American communities in Louisiana to evaluate its effectiveness in preserving unmarked burials in pre-Columbian context, and to provide an opportunity for critical feedback on the UBA regulatory process. Qualitative data analysis of semi-structured interviews with tribal representatives was employed to document these perspectives. Supplemental data, including records of permits issued in accordance with the UBA, were analyzed to assess permit usage of the UBA since 2010. Results showed that Native American communities who participated in interviews were overall content with consultation and collaboration regarding unmarked burial sites. However, their outlook for long-term protection and preservation was dim due to the lack of control tribes have over sites situated on private property that is covered under the UBA.
Concerning the permits, only 2 out of 18 permits issued since 2010 involve burials in pre-
Columbian context, demonstrating that the UBA has been applied more frequently in historical context. This research found that tribes need more legal control over unmarked burials to preserve sacred sites properly.
CHAPTER ONE. INTRODUCTION

As an attendee of the 2020 Annual Conference of the Louisiana Archaeological Society (LAS), I witnessed a historic first for the organization: members of the Coushatta Tribe of Louisiana attended the annual conference as a group. Tribal leaders, their Tribal Historic Preservation Officer (THPO), and families attended the conference to participate in a weekend discussing and meeting with archaeologists whose research interests involve the investigation of past lifeways and populations in Louisiana. Furthermore, this experience was my introduction to interactions between archaeologists and Indigenous communities. Tension in the room was evident as a presenter displayed images of prehistoric human skeletal remains on a presentation with no disclosure or warning. The display was distressing for tribal members in the audience, but considered normal for all of us non-native archaeologists in the room. The remains in the presentation were the subject of a case of skull trafficking, in violation of Louisiana statutes, including the Louisiana Unmarked Human Burial Sites Preservation Act, La R.S. 8:304-306 (UBA). At that moment, it was evident to me that while we have made progress in the treatment of and collaboration with Indigenous communities, additional efforts are required to understand and incorporate the perspectives of contemporary Indigenous communities to ensure the proper treatment and protection of human remains found in prehistoric contexts.

Interactions such as the one at the LAS Conference of 2020 inspired this thesis, one goal of which is to ensure consideration of descendant communities’ input regarding legal processes that affect Indigenous burial sites. While the LAS executive committee resolved the immediate issue by calling for future presentations to remove photographs of human remains or use drawings, all instances of collaboration in archaeology with descendant communities could benefit from further dialogue. Creating inclusive environments for collaborative research is a
positive way to ensure that the work is thorough and approached from a well-rounded perspective (Colwell-Chanthaphonh & Ferguson, 2004; Colwell-Chanthaphonh et al., 2010). As Native Americans have had to repeatedly voice their right to reclaim cultural materials, the human remains of their ancestors, and their tribal lands (Green & Doershuk, 1998; Watkins, 2004), progress in creating better relationships between Indigenous descendant communities, archaeologists, and the pertinent government agencies will involve overcoming colonialist notions that stalled the implementation of current regulations overseeing the study, preservation, and protection of cultural materials (Ferguson, 1996). Holistic approaches to consultation and assessment of impacts to land for human purposes are needed for a more involved consultation process from all parties.

Following the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, Native American tribes that were federally recognized gained agency in the processes that regulate the protection, preservation, and scientific use of culturally affiliated human remains, burial sites, and funerary objects. However, subsequent federal and state legislation should be informed by implementing the current perspectives of all Native American tribes (i.e., those without federal or state recognition) into activities, processes, or decisions that affect their culture (King, 2009). Archaeological mitigation strategies, meaning the strategies used to minimize adverse effects on the project area during investigations, manage impacts to the natural environment and associated communities; however, research regarding how these strategies have affected living communities may further influence the legal processes that guide anthropological and archaeological investigations.

NAGPRA provides guidelines for protection and repatriation involving human remains found on federal property, tribal property, or housed in federally funded institutions (Chari &
Lavallee, 2013; Wilde & Brown, 2003). Since the passing of NAGPRA, many state governments have developed procedures to mitigate human burial sites and burial objects found on state and private land (Seidemann, 2010). When culturally significant materials are discovered on state- and privately-owned land, the processes for repatriation and preservation vary depending on the state laws in place. The mitigation of sacred sites is further complicated depending on whether or not the discovery was anticipated. If anticipated burials with potential for repatriation arise in federal, state, and private-owned contexts, laws exist to repatriate and preserve remains and their associated objects (e.g., National Environmental Policy Act, 1970; National Historic Preservation Act, 1966; NAGRPA, 1990). In these situations, stakeholders can plan burial assessments if a tribe possesses documentation of their ancestral lands and shares the information with the consulting parties during land development or mitigation consultations. For unanticipated and/or unmarked burials discovered on federal land, the remains and any associated funerary objects fall under the jurisdiction of the National Park Service through NAGPRA. Unanticipated / unmarked burials found on state or private land are subject to individual state or local laws to guide their protection and preservation. In Louisiana, the Unmarked Human Burial Sites Preservation Act (UBA) of 1992 provides a process for managing discoveries of previously undocumented human burials. For burials discovered in each of these jurisdictions and situations, the outcome of their final disposition is dependent on consultation with affiliated descendant communities.

The Louisiana Department of Culture, Recreation and Tourism carries out the UBA through the State Archaeologist in the Division of Archaeology (the Division) (Seidemann, 2014; Seidemann & Moss, 2009). Because of the rich cultural history in Louisiana, situations often arise in which the Division works with Native American tribes to decide the final
disposition of remains and artifacts from unmarked burials (Rees, 2010). Yet, no formal
documentation exists on how Louisiana’s Native American communities regard the UBA. This
research aims to understand and evaluate the effectiveness of the current unmarked burial
policies in Louisiana and the needs of Native American tribes with cultural affiliation to
Louisiana. Methods of analysis include qualitative data analysis through interviews with
Louisiana-affiliated tribal representatives and analysis of permits allowing for archaeological
investigations at burial sites, issued in accordance with the UBA, since 2010. The primary goal is
to understand the needs of tribes regarding the preservation and protection of their ancestral
burial sites, remains, and objects. As the UBA undergoes the regulatory process, which is the
addition of regulations to the existing legislation, documentation of Native American
perspectives may result in suggestions or recommendations for improving the UBA and/or
policies related to burial mitigation.

Because of distinctions regarding recognition of Native American groups and their legal
rights, an explanation of terminology used in this thesis is warranted. For this research, “Native
American” refers to Indigenous peoples of North America in the area now referred to as the
United States. “Federally-recognized tribes” will be referenced as “FRT,” “state-recognized
tribes” will be referenced as “SRT,” and tribes not recognized by either the federal or state
governments will be referred to as “NRT.” Although the UBA applies to all unmarked burials in
historic and pre-Columbian context, this thesis focuses on burials found in pre-Columbian
context associated with Indigenous communities. This choice was made because pre-Columbian
burials are more difficult to repatriate to culturally-affiliated communities because there is either
no or very little historical documentation. This complicates the consultation process because
although Louisiana has an extensive culture history recorded in the archaeological record (Rees,
assigning burials to a specific tribe is necessary and difficult when more than one tribe has contemporaneous settlement in the area a burial is found. Indigenous archaeology occupies all temporal spaces of North American archaeology, from pre-contact to historical chronologies. Terms such as "pre-contact" or "pre-Columbian" are more specific to archaeological research in the United States than the commonly used "prehistoric" because they describe the era before European colonization.

This thesis consists of six chapters: a review of the literature covering legal policies of interest to archaeological investigations and burials in pre-Columbian context (Chapter 2); the materials and methods used to assess the perspectives of tribal representatives in Louisiana and how the permits for the UBA were utilized for this research (Chapter 3); the results and analysis of the research (Chapter 4); a discussion of the interviews and UBA permit analysis (Chapter 5); and finally, conclusions drawn from the perspectives of the tribal representatives and the UBA permits, and suggestions for further research (Chapter 6).
CHAPTER TWO. LITERATURE REVIEW

The legislation archaeologists and descendent communities are subject to today is a product of social and civil rights movements. A review of the policies that have informed the institution of the UBA provides an understanding for their importance and continued impact on cultural resource management. Federal statutes involving the preservation, protection, and repatriation of objects, burials, and places culturally affiliated with Native Americans guided national progress toward a collaborative approach to research in archaeological contexts. These federal statutes provide guidelines for conducting ethical and effective cultural resource management on state and private land. The UBA, Louisiana’s response to NAGPRA, addresses different circumstances for preservation and repatriation than NAGPRA and enables Native American communities the opportunity to protect and preserve their culturally affiliated burial sites (Seidemann, 2014; Seidemann & Moss, 2009). Legislation such as the National Historic Preservation Act (1966) (NHPA) and the National Environmental Policy Act (1969) (NEPA) was enacted to guide archaeological investigations and provide avenues for community involvement in preservation efforts. Each of these legislative processes are reviewed in this chapter to discuss their influence on similar legislation in Louisiana.

2.1. Native American Graves Protection and Repatriation Act (1990)

Calls for human rights recognition from Native American communities drove the United States government to pass legislation intended to regulate repatriation of culturally-affiliated mortuary objects and burials on ancestral lands. First, the National Museum of the American Indian Act (NMAIA) was passed in 1989 and addressed collections at the Smithsonian Institution with Native American affiliation and provided provisions for the documentation and repatriation of such collections (McKeown, 2008). This law and others regulated the protection
of archaeologically-derived artifacts, but it was not until the 1990s that any legislation addressed the rights of the Native American community to all human remains and other significant cultural items in museums and other agencies that receive federal funding (Chari & Lavallee, 2013; Colwell, 2016; Price, 1991).

The passing of the NAGPRA in 1990 marks the first significant shift toward protecting sacred burial sites and objects (Ferguson, 1996; Trigger, 2006). NAGPRA was a response to systemic racism toward native communities that saturated the United States due in part to the nation’s European roots in colonialism (Colwell-Chanthaphonh et al., 2010). Moreover, the scientific community had perpetuated a manner of study that objectified and dehumanized aspects of Native American burials and cultural materials (Chari & Lavallee, 2013; Clark, 1999). As originally written, NAGPRA primarily addressed only human remains found on federal or tribal lands, or those housed in federally funded institutions, that could be affiliated with a FRT. Therefore, laws that address Native American rights to cultural materials and burials found in private and state jurisdictions had to be enacted by individual state governments (Seidemann, 2010). In the NAGPRA mitigation process, managing discoveries of human remains related to FRTs involves interactions of legislation, federal and state agencies, and consulting groups. For pre-Columbian discoveries, the strategies vary depending on whether or not finding the remains was anticipated, in what jurisdiction the remains were originally located, and what plans resulted from consultation with FRTs.

While NAGPRA increased protection of and Native American control over Indigenous cultural objects and human remains that fall under federal jurisdiction, the statute has not been without its challenges. Passing NAGPRA initially was an arduous legal, scientific, and social process that some have argued demonstrated the struggle of choosing an ethical path and acting
within the bounds of the law when conducting research (McKeown, 2012). Also, as the first legislation addressing the civil rights of Native Americans in the United States to their ancestral remains outside of museum contexts, NAGPRA sparked mixed reviews from the scientific community (Clark, 1999; Meighan, 1992). For example, some individuals or institutions see regulations for land development and research as opportunities for collaboration with Native Americans, while others feel restricted in their research by the need to repatriate items and remains that belong to Native American communities by law (Lunday, 2021; Weiss & Springer, 2020). Moreover, actions that promote equal treatment for all types of burials, independent of grave markers and their temporal disposition, are still impeded by views that the mitigation and protection of Native American cultural items and burials equals a loss of potential research materials (King, 2009).

Another challenge that became a significant focus of the NAGPRA regulatory process for tribes and some federal and non-governmental entities was the issue of pre-Columbian remains and materials that had no clear identifiable affiliation to a specific contemporary FRT. Deemed “culturally unidentifiable (CUI),” these remains and objects were a source of disagreement among petitioning tribes and those federal entities holding CUI materials due to a lack of consensus on who should be responsible for their disposition (Tsosie, 2012). The issue of CUI materials was addressed in a 2010 addendum to NAGPRA (the “CUI rule”) which included a section of regulations that gave federal agencies and institutions guidelines for determining the final disposition of remains and objects that qualify for repatriation but could not be connected to any FRTs (Chari & Lavallee, 2013).

Despite the progress of NAGPRA, the changes and additions apply only to situations at the federal level, and tribal entities without federal recognition (SRTs and NRTs) have no
recourse through NAGPRA for claiming remains or cultural objects at this level. As of January 2021, 574 Native American tribal entities are federally recognized, and the list is continuously changing as petitions for recognition are accepted or rejected (Sweeney, 2021); however, many more SRTs and NRTs exist. In Louisiana, there are currently 12 FRTs and 10 SRTs with areas of interest (AOIs) and cultural affiliation within the state (“2021 Federal Tribal Contact,” 2021; “Federal and State,” 2019). Additionally, the Division’s most recent tribal contact list (dated to 2016) includes the contact information of four NRTs that have cultural affiliation to land in Louisiana and with whom they have a relationship (“List of Federally and State Recognized Native American Tribes and Other Contacts - State of Louisiana,” 2016).

A list of all Louisiana FRTs, SRTs, and NRTs is available in Appendix D. An AOI, for the purpose of this research, is a geographic location with which a Native American community affiliates their culture. An AOI could be a place contemporary Native American communities and their ancestors considered sacred and would have inhabited or visited (Native American Graves Protection and Repatriation Act, 1990), a location that is no longer visited, or one that is not frequented by a contemporary tribe, but is still integral to their culture and beliefs. Since NAGPRA is federal legislation, FRTs are given rights under NAGPRA and are required to have defined AOIs as part of the identification process of cultural affiliation (Tsosie, 2012).

NAGPRA federally recognizes Native Americans’ right to control the disposition of affiliated cultural remains and objects. To facilitate this process, NAGPRA requires organizations under federal jurisdiction to compile and make inventories of these items available to FRTs. The processes for SRTs are different since they are only protected if laws are in place that complement NAGPRA on a state level (Seidemann, 2014; Seidemann & Moss, 2009). Moreover, SRTs may not have clear boundaries for their AOIs, and the process for consultation
regarding archaeological investigations will depend on state statutes. This difference in how tribes are treated depending on their recognition from the government could be a topic of controversy that may arise in this thesis during the interview process (Ferguson, 1996; Price, 1991).

2.2. The National Historic Preservation Act (1966) and the National Environmental Policy Act (1969)

The 1960s began an era of legal action to protect the environment and the heritage associated with landscapes in the United States. In 1966, the National Historic Preservation Act (NHPA) was passed to prevent federal agencies from impacting land that is essential to preserving human history. Historic landscapes, buildings, and neighborhoods are vital to modern communities’ lifestyles, so altering them can be detrimental to community health and identity (King, 2007, 2009). A subsequent law, the National Environmental Policy Act (NEPA) of 1969, set regulations for protecting human environments and their physical integrity. These laws ensured that federal activities (i.e., maintenance and production of airports, highways, national parks, etc.) and their effects on the landscape and surrounding communities were considered. Federal activities are discussed by the potentially affected groups and communities, the responsible federal agencies, and the respective State Historic Preservation Officer (SHPO), prior to commencement. While both laws allow for consultation with the potentially impacted communities, consulting parties are not required to alleviate the community’s concerns if a compromise cannot be made (King, 2009). As a result, federal agencies and SHPOs may determine which community concerns are to be taken into account as significant or budget-efficient based on the research design. Ultimately, the federal agency and the SHPO have the authority to determine which historical or environmental concerns brought forth during project planning and site avoidance procedures are viable before a project commences.
A group, such as a tribe or community, can contest a project and hire an attorney if they disagree with the decisions made by the federal agency and the SHPO’s assessments (King, 2009). However, if an affected group cannot afford legal assistance, the project would proceed as planned. Such projects can negatively affect the people in the surrounding area when environmental and community impacts are unable to be mitigated according to community concerns. When an agency determines a project may have negative community/ecological impacts and it invokes the NEPA and NHPA, they then contract with a Cultural Resource Management (CRM) firm to conduct archaeological investigations in situations where historical documentation of prior land use history is unavailable or nonexistent. The CRM firm determines whether the project will have adverse effects on areas of historic and prehistoric importance. A reporting and consultation process known as “Section 106” of the NHPA is initiated to document the extent of possible impacts on culturally significant areas and defines the prior land use and culture history of an area with little to no prior historical documentation. However, this process also has potential for conflict in that Native American communities’ concepts of a culturally significant area or impact may not be the same as the CRM firm’s determination of the site to be archaeologically investigated. For example, a sacred place can be an entire ecosystem that constructs a landscape (King, 2007; King 2009).

2.2.1. The Section 106 Process

When a federal agency has jurisdiction over any project, both the NEPA and the NHPA are in effect before the project begins, and the project must go through a reporting process outlined by Section 106 of the NHPA. While NEPA is concerned with environmental impact, the NHPA is concerned with community impact. Both types of impacts can be integral to the integrity of Native American burial sites. If sacred and/or culturally significant places are going
to be affected by a project, the Section 106 process guides their mitigation (King, 2007, 2009). Most archaeological research in the United States operates under the Section 106 process (Ferguson, 1996; Price, 1991; Seidemann, 2010; Wilde & Brown, 2003). This process mandates that the presence of or potential for archaeological sites must be considered before a project begins, and mandates the recovery of artifacts or materials found in an area where land disturbance is proposed. For example, Louisiana has an incredibly rich culture history in both pre-Columbian and historic contexts and companies planning to develop land that has an undocumented history of land use is subject to archaeological investigations under Section 106.

In the Section 106 process, a report detailing the project design is provided to the State Historic Preservation Officer (SHPO) and to the FRTs with AOIs possibly affected by the proposed development. The SHPO and FRTs determine whether any historic or prehistoric components represent in the project area and recommend whether a survey to identify any previously undocumented resources is necessary. There are few opportunities for the community and descendant groups to provide comments on a project when the project is in the research design phase of the Section 106 process. If eligible historic properties exist in areas of potential impact, the SHPO directs plans to address any adverse effects, and strategies are developed in consultation with the agency, client, SHPO, and FRTs. In addition, interested communities can participate in developing a plan for archaeological investigations and preservation strategies. A critical part of any mitigation plan is clarifying how any site and sacred place, as well as any human remains encountered, will be dealt with (i.e., whether the sites or remains fall under federal or state jurisdiction). The mitigation plan is detailed in a contract called a Programmatic Agreement or a Memorandum Agreement. These contracts are documents that specify how the federal agency will meet its responsibilities under Section 106 for a given project. In addition to
addressing the management of sites, sacred places, and human remains, the agreement also sets forth what will happen to any materials collected during the project and what the final reports entail (King, 2007; King 2009).

Some properties in the project area may already be on the National Register of Historic Places—the official register of places recognized by the federal government, regulated by the NHPA—or will be obvious structures addressed by the agency’s report to the SHPO. However, areas of interest and places sacred to FRTs may not be apparent to those outside the tribe and consultation with such communities may be necessary to assess possible impacts (Colwell, 2016; King, 2007; Shackle & Chambers, 2004). In cases where communication with groups culturally affiliated with an area happens before the finding of burials, the involvement of Native American communities is more or less straightforward when or if remains / sites are found; the federal agency and SHPO will work with the identified FRTs to minimize the disturbance.

Although consultation with SRTs and NRTs is not a requirement, these groups have the right under Section 106 to provide input regarding the effects of the proposed developments only as private citizens (King, 2007; Wilde & Brown, 2003). Community input can involve any concerns about negative effects on the culture or structure, physical and otherwise, of the community and its history. Consultation with SRTs and NRTs in such instances clearly would give a more holistic understanding of how a project would impact the environment and surrounding communities. The UBA, Louisiana’s response to NAGPRA, encompasses more circumstances for preservation and repatriation and provides NRT and SRT Native American communities with the opportunity to protect and preserve their culturally affiliated burial and sacred sites at the state level (Seidemann, 2014; Seidemann & Moss, 2009).
2.3. Louisiana Unmarked Human Burial Sites Preservation Act (1992)

Although the policies discussed above all affect Native Americans, this research primarily focuses on Native American tribes’ participation in and evaluation of the UBA (1992). Written into law in 1992 in response to NAGPRA, the UBA was modeled after NAGPRA to complement its legislation on a state level. It not only encompasses a wider variety of situations, but also allows protection for more descendent communities than does NAGPRA (e.g., those who are state, but not federally, recognized have agency under the state law) (Seidemann, 2014; Seidemann & Moss, 2009). In fact, any persons who were “earlier residents of Louisiana” are entitled to protection under the UBA, regardless of ethnic, religious, and cultural backgrounds (La. R.S. 8:672). By instituting this law, Louisiana mandates that unmarked discoveries of human remains or burial sites not only receive a proper investigation, but also are ensured a final disposition.

When anticipated burials or sites are discovered, consultation processes under the NHPA and NEPA are ongoing throughout a project, and a plan of action typically is in place before any remains are recovered from a project area. However, an inadvertent discovery of unmarked burials may result in several legal outcomes, and the physical setting of the unanticipated burial sites determines how complicated the mitigation process will be. Accidentally discovered burials encompass a wide variety of time periods, from contemporary to archaeological. All of the laws previously reviewed affected the development of the UBA and, therefore, how the UBA is received and implemented as policy on a state level. While the UBA addresses all unmarked burials discoveries, this thesis research only discusses those considered culturally and historically significant to Native Americans.
The subsequent legal process involving unmarked Native American human remains, burials, or burial objects depends primarily on the jurisdiction of the area in which they are discovered (Seidemann & Moss, 2009). For example, if found on federal or tribal land, NAGPRA is the controlling law, and the site is under the jurisdiction of the federal government or agency responsible for the site area. State law, if it exists, determines the process for mitigation and repatriation for remains found on state or private land (Seidemann, 2010). Only basic common or civil law concepts are available to protect such remains and sites in instances where no such laws exist. For Louisiana, the UBA elaborates on how these spaces are treated and protects them from deliberate or coincidental physical disturbance. For example, the UBA makes it unlawful for citizens to disturb unmarked human remains, prevents the selling or buying of human remains, and requires the cessation of all activities that disturb the remains. The Division is primarily responsible for carrying out the duties listed in the UBA (Seidemann, 2014; Seidemann & Moss, 2009).

### 2.3.1. Definition and Process

The UBA defines an unmarked burial site as “the immediate area where one or more human skeletal remains are found in the ground that is not in a recognized and maintained municipal, fraternal, religious, or family cemetery, or a cemetery authorized by the Louisiana Cemetery Board” (La. R.S. 8:673). An unmarked burial also is any burial or cemetery that does not fall under the general cemetery law of Title 8 of the Louisiana Revised Statutes. Title 8 covers cemeteries that are not necessarily unmarked but are part of operating cemeteries, as well as abandoned, isolated, and some historic cemeteries that were or are registered authorized by the Louisiana cemetery board (Seidemann 2014, Seidemann & Moss, 2009). Further legal protection is provided to historic cemeteries under La. R.S. 8:304, which states that an area previously
established as a cemetery can only be used as a cemetery. If a (proposed) developmental project requires that historic or prehistoric cemetery must be removed or replaced, the UBA provides the Division with the ability to direct the site’s preservation and protection.

The policies for unmarked burials under UBA are as follows: when an unmarked burial is discovered, law enforcement and the coroner are contacted first; if the coroner determines the remains were interred more than ~50 years prior to their discovery (i.e., are historic or pre-Columbian in context) and are not part of a crime scene, no further forensic investigation is required and the remains fall under the jurisdiction of the Division. If the site is on state or private land and the burial is of no forensic significance (meaning it does not require further medicolegal or criminal investigation), the land owner can decide to preserve the burial in place or remove the remains and rebury them elsewhere (Seidemann and Moss, 2009). Traditionally, the preference of the Division is to leave the burial(s) in place, and efforts often are made to avoid disturbing the integrity of the site and the human remains. However, federal and state constitutional private property laws give landowners the right to decide whether or not to move a burial or cemetery on their property. If the decision is made to move the burial, developers and landowners must obtain a permit from the Division; the UBA provides guidelines for this process. If there is no environmental or cultural context to associate the burial temporally or with any potential group, descendant community, or family, the permit granted by the Division per the UBA also can authorize scientific analysis of the remains to determine a possible kinship or descendant correlation.

If living individuals are identified who have a direct relationship to the remains, or if analysis of the burial site and remains shows they have an affiliation to an existing Native American community, the affiliated groups or individuals take part in determining the final
disposition of the remains. The Division retains legal jurisdiction for the remains but works with all interested descendant communities to determine an appropriate course of action (L.a. R.S. 8:681 a2). If no descendant community or individual can be associated with the remains and they cannot stay \textit{in situ}, the Division determines their final disposition.

While many descendant communities in Louisiana are affected by the UBA, this thesis focuses on the Native American communities that consult on remains from pre-Columbian contexts. In Louisiana, many Native American communities have overlapping AOIs, which complicates the repatriation process and may involve extensive consultation on the part of the Division. Because methods of scientific analysis such as DNA analysis are destructive and economically impractical in most situations, the process to demonstrate affiliation to the remains instead involves historical documentation or assessment of the burial’s osteological features. FRTs must provide historical documentation as part of the acknowledgment procedure, but SRTs and NRTs often have less written evidence of their lineage, making it more difficult for these groups to establish affiliation with a site or remains (King, 2007; Shackel & Chambers, 2004).

2.4. Interviewing Indigenous Groups

Gaining information on Native American tribes’ perspectives is imperative to understand the social setting of questions about culture and community identity. The present research seeks to evaluate the effectiveness of the UBA for Native American communities in Louisiana and, thus, involves questions specific to the legal system and their interactions with it. However, while cultural practices associated with Native American sacred burials and mortuary contexts are not the focus of this research, social aspects that potentially will affect the outcome of the interviews must be considered (Briggs, 2012; Shackel & Chambers, 2004). Thus, this research may encompass both political and social viewpoints. Awareness of the differences in social
context between the interviewer and Consultant aids in better communication during interviews, and ideally results in open and honest dialogue.

Interviewing members of Native American communities often is further complicated by the history of their relationship with researchers in the United States (Chari & Lavallee, 2013; Colwell, 2016; Ferguson, 1996; Trigger, 2006). In the history of the study of Indigenous peoples, anthropologists have lacked the ethical disposition to properly credit so-called informants for their contributions to fieldwork, archaeological reporting, documentation of culture histories, and ethnographies (Bruchac, 2018). Even though Louisiana is progressive in respect to developing opportunities for SRTs and NRTs to initiate repatriation, all states in the U.S. should focus on providing more support and assistance opportunities to Native American communities who constantly meet legal boundaries that challenge their historical authenticity (Crepelle, 2016; Klopotek, 2011). This research recognizes Native American tribal representatives as the authority on their ancestors and as advocates for the needs of their community. Furthermore, tribal representatives participating in this research are regarded as consultants, and the success of this research is fully attributed to their participation in the discourse.

As outsiders, researchers who work with Native Americans or informants from any culture that is different from their own must recognize and apply practices for interpreting information received from outside of their own familiar cultural context (Briggs, 2012). Interviews are a method for conducting ethnological research and, thus, are informed by personal experiences of the consultant, or experiences communicated to the consultant by other community members. When interviewers enter a space where their culture differs from that of the consultant, better results are gained by adhering to the consultant’s manner of dialogue (Briggs, 2012; Hill, 2006). Also, assuming a role in the interview that is comfortable and familiar
to the consultant is preferable for maintaining an organized approach to the interview process.

For this research, I determined that a productive dialogue between myself as a researcher and the descendent community representative would be best attained through a semi-structured interview process with a schedule of questions designed to address the goals of this research. This researcher acknowledges the sensitivity and cautiousness that Native American tribal representatives may feel regarding non-native anthropologists.
CHAPTER THREE. MATERIALS AND METHODS

The purpose of this research is to evaluate the effectiveness of unmarked burial policy concerning the consultation experiences of FRTs, SRTs, and NRTs, as required by the UBA. Through an interview process, a review of the laws and regulations surrounding Native American burial sites, and an inventory of permits issued by the Division with regard to UBA, this research hopes to elaborate on the needs of Native American communities regarding repatriation and protection of human remains. Assessing their perspectives of the UBA using qualitative data analysis will give valuable insight into the opinions of the communities that the law serves. An evaluation of the permits issued per the UBA since 2010 will provide physical data for the application of the UBA.

3.1. Interviews

Permission to conduct research involving human subjects is required by the LSU Institutional Review Board, and the application to conduct interviews was approved on April 16, 2021 (See Appendix A). As part of the IRB, the interview participants were ensured anonymity due to the fact that they were sharing information about their relationships with the government and other tribes. Anonymity and confidentiality of the full interview transcripts were provided to show the interview consultants that they would have a safe space to discuss their views and experiences. The consultants chose the setting for the interviews to accommodate for COVID-19 precautions; both interviews were conducted via phone.

While the UBA addresses any direct or indirect relatives of remains found in unmarked burials, the interview portion of this research only includes Native American groups. According to the United States Bureau of Indian Affairs, the Louisiana Office of Indian Affairs, and the Division’s tribal contact list, Louisiana has 12 FRTs and 10 SRTs that the Division consults with
regarding the UBA (“2021 Federal Tribal Contact,” 2021; “Federal and State,” 2019). As of 2016, contact information for four NRTs has also been available and these were included in the interview pool (“List of Federally,” 2016) (see Appendix D for lists of tribes with cultural affiliation to Louisiana). Communities with a public record of contact information and some experience with the UBA were the focus of the interview process.

While not all states maintain contact with their respective SRTs, Louisiana legislation offers a unique opportunity to gain insight from different communities, regardless of their recognition status (Seidemann, 2010). The goal was to engage in interviews with tribal representatives: two with FRTs, two with SRTs, and two with NRTs. Representatives could be anyone the tribe designated as their intermediary with the Division or a designated representative who consults according to the UBA on a tribe’s behalf. The Federal and State Tribal Contact List (2019) provided by the Louisiana office of Indian Affairs lists the tribal positions of the main contacts as either the Chief or Chairman of their tribes. The List of Federally and State Recognized Native American Tribes and Other Contacts (2016) provided by the Division of Archaeology lists main contacts for FRTs as Chief, Chairman, or Chairperson, and also provides the THPO information; the SRTs are listed as Chief or Chairman; and the NRTs are Chief or Director. Therefore, acceptable tribal representatives for this research are anyone in the above positions, or someone designated by one of the above positions as an acceptable representative.

I made the requests for interviews consecutively to the tribal contacts for the FRTs, SRTs, and NRTs until two interviews were scheduled for each, rather than simultaneously, in an attempt to keep the maximum number of interviews scheduled at six. Interview requests were emailed between June 3 and August 31, 2021 (see Appendix B for the initial contact letter). When two weeks passed without a response, contacts were sent a follow-up email to determine
their availability status for an interview. If communication through email was unsuccessful and a phone number was listed for reference, the number was contacted in another attempt to initiate an interview. A total of 13 tribes were systematically contacted during the request period, and ultimately only two contacts reached the interview stage. The response rate is discussed further in Chapter 4 of this thesis, following analysis of the results to have a better understanding of the participation in this research. Since most of the questions involve discussion of previous consultations, the consultants will hereafter be referred to as Respondents #1 and #2 for clarity.

3.1.1. Qualitative Data Analysis of Interviews

A semi-structured interview was employed for data collection to assess the representative outlooks of the Respondents regarding consultation concerning unmarked Native American burial sites. Open-ended questions were part of the methodological approach to allow conversations to include the opinions and feelings related to the social and cultural context in which these questions were being asked (Briggs, 1986; Galetta & Cross, 2013). The questions were not sent out prior to the interviews; however, the Respondents were aware of the nature of the questions (See Appendix B for the Initial Contact Request). Each Respondent was asked 10 questions (see Appendix C for the schedule of interview questions).

Reaching the objectives of the interview data analysis required a combination of both a diagnostic and evaluative framework, which are two methods of organization customary in policy research (Ritchie and Spencer, 1994). Questions 1-4 were contextual and designed to identify the setting in which consultation and interactions with policy had occurred, to describe the tribes’ perceptions and experiences in a legal context, and to identify consultation methods. Questions 5-10 were evaluative and designed to determine whether the Respondents perceived that the intentions of the UBA were being achieved, and what the tribal representatives’
experiences were in terms of boundaries and needs for improvement with burial policy. The data collected from the interviews were then analyzed using hand-coding to assess patterns and themes in the conversations (Bryman & Burgess, 1994). Iterative analysis was employed to assess the relationship between the categories and codes as they appeared through repetitive coding of the data (Galetta & Cross, 2013).

3.2. UBA Permits

Records of the permits issued in accordance with the UBA in the last decade (since 2010) were analyzed to provide quantitative data and an assessment of the UBA in application. The Louisiana Division of Archaeology provided access to copies of the permits. Under the UBA, the Division issues permits for purposes such as disinterment of remains, which is specified further based on the scope of work for the archaeological project. While UBA permits can apply to any unmarked burial site, the current analysis focuses on the frequency of permits for pre-Columbian burial sites. The intention for including permit records is to use the information they provide to discuss what they allow, in which temporal contexts they are occurring, and who participates in the process.
CHAPTER FOUR. RESULTS AND ANALYSIS.

4.1. Limitations and Structural Modifications

Although the original research structure aimed to gain perspectives from FRTs, SRTs, and NRTs, only two categories provided one interview each. The interviews include one conversation with a representative of a NRT (Respondent #1) and one with a representative of a FRT (Respondent #2). Respondent #1 is a councilman for his tribal government. Respondent #2 is the THPO for the tribe. As the interviews began, it was apparent that the Respondents had prepared points of their own to cover in the interview, and these became the conduits for discussion. Rather than interview questions explicitly leading and guiding the dialogue, the questions were points that I made sure to address. If a question was not addressed through a Respondent’s account of an experience or the sharing of a community view or practice, the question was asked at an appropriate time in the conversation. Below is an example of a statement addressing one of the interview questions without my prompt:

Respondent #2 (FRT): So, I want to start off by saying that I’m thankful that we have something to protect unmarked burials regardless of who the person is. A cemetery is a cemetery is a cemetery until it is declared by a judge not to be a cemetery and the remains have been removed, so that is awesome in and of itself. And so, I’m very thankful for that.

The interview question addressed in the above passage was Question 1: How familiar are you with the Louisiana Unmarked Burial Sites Protection Act? The answer could be interpreted as yes, the Respondent was familiar with the UBA. Below is an example of where the interview transitioned from conversational to directly addressing the interview questions.

Respondent #1 (NRT): We are contacted by certain corporations and stuff because they know there are um sacred sites and sacred landscapes. They will contact us and get our feedback. Sometimes when they’re going to dig a pipeline, put a Highline
in or something like that, so we do get contacted like that. We are on the list. A lot of the responsible corporations know whose land they’re on. And they will contact us. And we get approached about projects like that.

Schoeffler: So, when you’re contacted, does this result in a positive experience? Or are they just letting you know or asking for your opinions? (MODIFIED QUESTION 3 AND 4)

Respondent #1 (NRT): Sometimes, they ask us or invite us to a meeting, to talk about and see if we have anything in the area because they don’t always know, and they ask us. And we can look at what our records show you know. I’ll give you an example. One of the last meetings we had was with the central Louisiana electrical company (inaudible). They were um putting a coal (inaudible) beam under the river to the power plant, and um they got our feedback on it, and they said ‘it is going to miss the graveyard.’ So, it um ‘we’ll put it in, and as best we can tell, it’ll miss the graveyard.’

Schoeffler: I see, but—

Respondent #1 (NRT): But that’s not typical. Most companies aren’t that responsible.

Schoeffler: Okay. So, these consultations have helped you protect the integrity of some of your sites or? (MODIFIED QUESTION 6)

Respondent #1 (NRT): No, just that some of these corporations are responsible and know who their land is and protect somewhat, but in other cases, the corporation will just go in and just annihilate it and not even ask.

Because the Respondents knew the interview would focus on unmarked burials, this allowed them, in a way that was not anticipated, to direct the interview as more of a conversation. Specifically, part of the initial contact request read, “Your tribe’s participation in an interview about your perspectives and experiences regarding legal processes will provide documented insight into how the state can better protect sacred sites and promote communication” (see Appendix B). During the interviews, it was apparent that the Respondents had reflected on the nature of the interview before the scheduled meeting and were prepared to document their community’s experiences without prompt. Thus, the planned-for semi-structured interview then became more open-ended. The designed questions were for structural purposes and were points to be met, rather than for leading the conversations. As the conversations
occurred, modifications to the questions arose so that they made their way into the conversation organically.

4.2. Qualitative Results

The two interviews are discussed in comparison for analysis. Through iterative data analysis and hand-coding, three significant themes developed under thematic codes: Tribal Recognition, Legal Experience, and Site Protection. The categorized codes are presented according to the themes in Table 4.1. The results of the interviews demonstrated a stark contrast between tribes of different recognition statuses. Their inclusion in consultation, the necessity of their participation, and the extent of government relations depended on the type of recognition. Experience with burial site policy was less dependent on recognition status and more so associated with whether the experience pertained to burial sites in federal, state, or private property jurisdiction. When recounting experiences, awareness of legislation varied between the two Respondents, but both were firm on their knowledge and awareness of policies. Familiarity with legislation was discussed in terms of personal experience or second-hand knowledge of past consultations. Finally, the most apparent theme was site protection.

Respondents addressed the range of available resources for facilitating consultation and site protection, and whether the resources were for organizations and government entities working with tribes or for the tribes themselves. Both tribal representatives criticized private property laws in Louisiana, which give legal jurisdiction over unmarked burials to the landowners; the Respondents addressed the limited effectiveness of the UBA when applied to remains found on private property and also discussed the improvement of this process. Both Respondents addressed the looting of sacred sites, which tied into the discussion of property
rights and effective protection measures. Lastly, academia’s effect on site protection was addressed throughout the interview of one Respondent and warrants further discussion.

Table 4.1 Thematic Codes from Qualitative Data Analysis for Interviews

<table>
<thead>
<tr>
<th>1. Tribal Recognition</th>
<th>2. Legal Experience</th>
<th>3. Site Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Inclusion</td>
<td>- Legal jurisdiction</td>
<td>- Resources</td>
</tr>
<tr>
<td>- Consultation opportunity</td>
<td>- Awareness</td>
<td>- Property rights</td>
</tr>
<tr>
<td>- Government relationships</td>
<td>- Familiarity</td>
<td>- Temporary effects</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Looters</td>
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<tr>
<td></td>
<td></td>
<td>- Academia</td>
</tr>
</tbody>
</table>

4.2.1. Results of Contextual Framework

**Question 1: How familiar are you with the Louisiana Unmarked Burial Sites Protection Act?** This question sought to assess the Respondent’s familiarity with the UBA. If the Respondent voiced little or no familiarity, they instead discussed how familiar they were with Louisiana laws concerning burial sites and cemeteries in general.

Respondent #1 (NRT) was aware of the UBA but was unclear on its purpose and application. When asked how familiar they were with laws that concern burial site protection in general, they stated they were somewhat familiar. Following a pause, they then said “that [burial site protection laws] did not exist.” They provided an account where a person went to one of their tribe’s sacred sites and removed a large amount of pottery from the ground; when the incident was reported, the Respondent was told by law enforcement that “there’s nothing we could do about it.”

Respondent #2 (FRT) expressed their familiarity with the UBA as well as past personal experience with the procedures and application involving unmarked burials in Louisiana. They described how a THPO from Arkansas called for advice on preserving unmarked burials in their state. In response, Respondent #2 outlined the process for who they would call and work with in
a Louisiana situation. This account indicated that the Respondent was well informed on the UBA and its purpose.

**Question 2: What is your experience with consulting and the Unmarked Burial Act?**

This question sought to elaborate on the previous question by asking the Respondent to provide context for their familiarity with the UBA and to discover if they have experienced consultations on burials that fall under the UBA.

Respondent #1 (NRT) stated that their only experience with the UBA was when they talked to people of different tribes who should have been informed about a law that preserves unmarked burials, but they did not know they could use the UBA to protect sites. This answer contradicted their response to Question 1 when the Respondent acknowledged that the UBA helps preserve sites. This inconsistency may indicate that the Respondent is familiar with the UBA’s purpose, but may not believe it is effective for site protection.

Respondent #2 (FRT) described an overall positive experience with the UBA in that they are grateful Louisiana recognizes that cemeteries need protection regardless of what the cemetery looks like, what the individuals inside them look like, and the length of their interment. Respondent #2 is overall thankful that Louisiana, compared to other states, recognized the need for legal protection to burials that do not have grave markers. They did express that while the UBA is a resource that tribes in Louisiana are lucky to have, the process warrants improvement. Possible improvement was explored in relation to other interview questions.

**Question 3 How would you describe your relationship with the Division of Archaeology?** This question sought to discover more about the extent of the Respondent’s experience consulting under the UBA. The Division regulates consultation regarding unmarked burials in Louisiana; therefore, the Respondent’s answer regarding the nature of their
relationship with the Division provides a basis for the tribe’s view of the Division, whether they are in communication regularly, and whether they are familiar with the Division’s role in facilitating the UBA.

Respondent #1 (NRT) was uncertain of their relationship with the Division. They stated that they “kind of” knew about the Division and had a relationship. This uncertainty may be due to the Respondent’s not being clear on the Division’s role in facilitating the UBA. With further discussion, however, the Respondent elaborated that the issues among Native American tribes impeded their relationship with the Division, as intercommunication among tribes during repatriation consultations was difficult due to a history of inter-tribal animosity.

Respondent #2 (FRT) was asked directly to describe their relationship with the Division. Their relationship was described as “stellar,” that “the Division are true partners,” and that preservation is one of their main foci. Respondent #2 has had a great relationship with the Division, and they have never had issues with the current or previous State Archaeologist. They also expressed that they felt they were in good hands because many other tribes are not in good hands throughout the nation.

**Question 4: What is the extent of your involvement in consultation when the Division of Archaeology contacts you about a sacred site that might be associated with your tribe?** This question sought to describe the consultation process. The protocol for notifying tribes is described in the literature review, but this question is intended to provide a description of what that consultation process entails in action.

Respondent #1 (NRT) described in response to Question 3 that they had little contact or an irregular relationship with the Division. Their description of consultation was of their interactions with federal-level entities. These consultations are described under Question 10.
Respondent #2 (FRT) did not elaborate on the consultation process directly, but instead described how they would be notified when a citizen reports a possible burial. They also explained how accessible the Division’s website is because it provides resources, including relevant legislation, permit instructions and forms, and lists of tribal contacts, that make communication and reporting within Louisiana easier for all parties. Respondent #2 stated that the Division tries to keep up with tribal elections to ensure their contact info is correct. The communication between them even goes as far as the Division checking on them to confirm that agencies have contacted them about environmental plans that affect their sites. They concluded by saying they believe that the Division is doing the best that they can.

4.2.2. Results of Evaluative Framework

Question 5: Why or why not do you think that the UBA does its duty in protecting your tribe’s sacred sites? This question began a series of inquiries (Question 5-9) that analyze the effectiveness of the UBA from descendant communities’ perspectives. Question 5 sought to bring forward any positive or negative interactions regarding protections of sacred sites and to uncover whether the tribes felt that the UBA was generally effective legislation.

As Respondent #1 (NRT) was not familiar with the UBA and was more familiar with federal legislation regarding sacred site preservation, their interview could not provide context for this question. Their responses to Questions 1 and 2 provide a reference for their beliefs regarding the effectiveness of the UBA.

Respondent #2 (FRT)’s responses to Questions 1 and 2 describe their feelings of gratitude for Louisiana having the UBA. They believe there is a law to protect cemeteries, but their beliefs regarding the UBA’s effectiveness best fall under Question 6 (see below). Under Question 5, they provided context for this question by relating an experience with a landowner.
Respondent #2 was contacted by an LSU archaeologist who had been in touch with a man who had found a human skull while digging for Native American pottery on private land that was not his own. From the context of the interview, it was unclear if law enforcement was involved because the looter had contacted the police, who in turn contacted the Division, or if law enforcement was contacted as a mitigating party between the THPO and the looter when visiting the site. Respondent #2 refers to the process of disinterring artifacts without proper permitting or archaeological reporting as looting. The private land was in the area of Respondent #2’s aboriginal homeland, so they were involved in the process of what to do with the burial. Respondent #2 (FRT), the looter, and the sheriff’s department went to the location of the skull. Because the looter found the skull on private land, the landowner had the responsibility and option to report the looter for disturbing an unmarked burial. Respondent #2 (FRT) expressed that their tribe was helpless in this situation; because the landowner, who was not involved in the discovery and had no interest in the matter, has the power when remains are found on private land, the tribe was unable to report the incident to law enforcement.

**Question 6: How has the Unmarked Burial Act helped you protect any sacred sites associated with your tribe?** This question further elaborates on Question 5 by providing situational context for the tribes’ reasoning behind their evaluation of the UBA’s effectiveness. This question provides a “how” for the “why,” and was most useful if the tribe had firsthand experience in consulting with the Division. If the Respondent had no firsthand experience with consultation, they could provide instances in which they knew the UBA had been applied.

Respondent #1 (NRT) could not provide context for this question since it elaborated on Question 5.
Respondent #2 (FRT) stated that the UBA is helpful, and it does give them access to resources to assess a burial that is in danger. The UBA is beneficial for their tribe because they can apply for a permit, they are allowed access to private land, and they can remove burials that are in danger. However, their problem with the UBA is that it does not protect the burials in the long term, even though it helps the tribes temporarily put the individuals out of harm’s way. Even though a burial can be removed, the ultimate goal is to reinter them in a safe place, which requires funding. They stated that without the UBA, landowners would likely not report burials to anyone because there would be no legal obligation to do so. In summary, Respondent #2 is thankful for that the UBA provides them with access to disinter burials that are in danger and that landowners are legally obligated to report unmarked burials.

Question 7: How do you feel about the outlook for the protection of a sacred site after the consultation process is over? This question sought to discuss whether the Respondent felt that consultation and application of the UBA meant that their site would be protected. Past literature indicated that a disconnect between non-native archaeologists and Indigenous communities exists because they view definitions of sites and protection differently (King 2007, King 2009). Even though the UBA provides legal guidance for preserving unmarked burials, the Respondents’ perspectives might indicate whether the law is meeting their communities’ expectations.

Respondent #1 (NRT) elaborated on this question by stating that they feel there is no outlook for the protection of a site after consultation. This question was directly asked as worded in the interview structure. Their response was, “There really isn’t any.” The Respondent then explained that the most significant protection comes from consultations on a federal level.
Respondent #2 (FRT) expressed through their experiences that the outlook for protection of unmarked burial sites that fall under the UBA is not great and could improve through the implementation of regulations for the UBA. As stated under Question 6, they felt that the UBA provided short-term solutions for burial site protection. If a burial is found on private property, the tribe whose aboriginal land that once was before the institution of private property, has to have the permission of the landowner to enact protective measures. They stated that under some circumstances, the tribe could not even use their own funds to protect the burials. Another primary protection issue is that for the tribe, protection can be more harmful than no protection because placement of markers or a fence identifies the cemetery and can attract looters or visitors that would further disturb the environment. Even when the tribe wants to put up a fence, Respondent #2 said that most landowners do not wish to modify their land or let the tribe install security measures. If their tribe is able to remove the human remains from a burial to protect them from harm, they might not be able to reinter the remains in the same place if the site is not secured safely. The UBA therefore provides only a short-term solution because, even though burials can be removed from disturbance, the lack of regulations presents a challenge in reburying them safely.

**Question 8: Do you feel that your participation in the consultation process affects the outcome of the situation?** This question sought to discover if the Respondents felt that their participation in the consultation process affected the outcome of the situations surrounding the preservation of unmarked burials of pre-Columbian context.

Respondent #1 (NRT) elaborated that concerning federal-level consultation (i.e., consultation regarding burials on federal lands), their participation was not so much a contributing factor to whether or not a site was going to be preserved, but instead depended more
on the agency or company with whom they were in consultation. As in the example provided on page 23 of this research, Respondent #1 stated, “some of these corporations are responsible and know who their land is and protect somewhat, but in other cases the corporation will just go in and just annihilate it and not even ask.”

Respondent #2 (FRT) was asked Question 8 directly, and they felt strongly that their participation in the consultation process affected the outcome of the situation. Given their response to Question 7, Respondent #2 appears more satisfied with federal-level than state-level consultations based on their involvement in previous federal consultations and their general inexperience in consulting with the state. In reply to Question 8, they provided an example in the context of a burial site on federal land. When an entity plans to modify the area and potentially disrupt the remains, they contact Respondent #2 (FRT) to discuss getting the proper permits together and the outlook for possible damage. In this situation, their tribe has the authority to make a plan for preserving the site, even though the state may want to take a different approach. Respondent #2 seemed satisfied that their decision was the final say in this federal-level consultation.

**Question 9: What would you change about the consultation process regarding the Unmarked Burial Act?** This question sought to gain suggestions from the Respondents for how the UBA could best serve the communities regarding the preservation of unmarked burials. While all of the questions could provide insight into how the UBA’s regulations best address the needs of descendant communities, this question directly asked for the Respondent’s feedback on the consultation process for the UBA.
Respondent #1 (NRT) was not confident about change or improvement of preservation strategies. However, they did express that the state should respect Native American sites as they would a regular historic or currently used cemetery.

As the point of contact between the Division and their tribe, Respondent #2 (FRT) provided specific ways to improve the UBA. They stated that the process could better serve the needs of descendant communities if someone with their tribe’s best interests in mind could have more ability to prosecute perpetrators of site disturbances and protect burial sites. Currently the UBA does not allow advocating communities to be involved in pressing charges for site disturbance and this is addressed in more detail in the Discussions section of this thesis. They stated that if the state truly wants to protect cemeteries and unmarked burials, landowners should have less power and responsibility to prosecute and protect burial sites on private land. Also, they suggested that a state program to assist private landowners to fund protective measures for sites would be helpful. They recommended that a program such as competitive grants could benefit landowners who lack the time, funds, and interest to protect unmarked burials.

**Question 10: What is your experience with heritage laws outside of Louisiana, such as NAGPRA?** This question sought to relate the UBA to its federal counterpart NAGPRA. It was necessary to understand the Respondents’ experience with NAGPRA since this law is the only one other than the UBA that calls for consultation involving unmarked sacred sites. Discussing the Respondent’s experience with federal-level consultation is necessary for determining a frame of reference for NAGPRA’s relationship with and influence on state-level consultation. Placing this question at the end of the interview allowed the bulk of the discussion to focus on the UBA.

Respondent #1 (NRT) was able to speak on more experiences with NAGPRA and federal-level consultation than on anything to do with the UBA. They said that their tribe would
typically be invited to a meeting by “responsible corporations” who want to see if there were any sites that potential projects would affect. The experience they are describing is that of federal-level consultation, not having to do with the UBA. They expressed, however, that often “corporations” would not take steps to protect the land and would not consult with them before potentially impacting sites.

Respondent #2 (FRT) was able to speak on their experience with NAGPRA as they were the THPO for their tribe. They provided an example of a consultation and their outlook on federal-level situations of site protections under Question 8. As the point of contact for federal agencies and NAGPRA related issues, Respondent #2 has extensive experience with heritage laws outside of Louisiana.

**Closing Statement.** At the end of the interviews, the Respondents were asked if they would like to address anything that had not been discussed during in the interview. They also discussed anything they wished had been part of the interview.

Respondent #1 (NRT) said that while it was necessary to improve the UBA, they wanted to address more deep-rooted issues. Specifically, throughout the interview, they circled back to the problems that anthropology caused in the past that perpetuated unequal treatment for Native Americans. They related many of the difficulties their tribe faces concerning repatriation to the foundations of anthropological and scientific research in academia in the United States. They wanted to make the central point at the end of the interview that they wished the conversation had focused on academia instead of the UBA. Another issue they addressed is their experiences during consultation with inter-tribal animosity. They stated that when a burial is found on land claimed by multiple tribes, some of those tribes are ignorant of their history and do not have a clear record of where their people originated from geographically. Therefore, arguments and
tensions arise when multiple tribes come together to discuss repatriation and mitigation for a specific site. Other than these points, Respondent #1 was prepared for what they wanted to address in the interview and had no other points to add at the end.

Respondent #2 (FRT) was prepared with specific examples, experiences, and suggestions for improvements for the UBA. As the point of contact for the Division and federal agencies, Respondent #2 had significant experience with the UBA and covered what they intended to during the interview process. Their closing remark was to reiterate that their tribe is thankful for the UBA, even though the legislation is not ideal because the power for prosecution and burial site/cemetery preservation on private land lies with the landowner.

4.3. Permits

The permits examined for this research provided by the Division are not available as public records. Therefore, identifying features (i.e., specific names of CRM firms, tribes, and site numbers) cannot be disclosed. In addition to protecting confidentiality, this anonymity also preserves the locations of unmarked burials that tribes may not want to be public knowledge. A copy of a permit with identifying information and signatures redacted is included in Appendix E. A total of 20 permits were issued per the UBA postdating 2010. The temporal settings for these permits involve both pre-Columbian and historic contexts. Of the 20 permits issued, the majority (18) addressed the preservation of historic burials and are not further discussed. The remaining two permits addressed Native American burials, and the context of their issuance was further analyzed. Features of the permits include:

1. Proposals for archaeological research and fieldwork provided by the CRM firms. The proposal consists of previous investigations at the site, a site description, culture history, research questions to be addressed, and field methods.
2. A copy of the permit signed into effect by the CRM firm’s principal investigator, the State Archaeologist, and witnesses. On one of the two permits, the THPO for the tribe with cultural affiliation to the site also signed the permit. With the second permit, a copy of email correspondence between the Division, the principal investigator, and a representative of the Louisiana National Guard relaying the affiliated tribe’s request and approval of the permit is provided in addendum.

3. A statement of the permit’s legal jurisdiction, date of approval, and conditions (See Appendix E).

The permits allow for removal, physical anthropological analysis, and reburial of the skeletal remains from the specific archaeological site from which they are recovered. The Division issued both of the permits for archaeological investigations contracted to CRM firms, providing them with the ability to remove, analyze, and reinter remains and culturally associated materials (i.e., grave goods) discovered during fieldwork. For both permits, the unmarked burials to be excavated were part of previously identified and officially recorded sites. The tribes with cultural affiliation to the areas addressed in the permits were both FRTs, meaning that since 2010, SRTs and NRTs have not participated in the permitting process of the UBA.
CHAPTER FIVE. DISCUSSION

Through the gathering of perspectives on the UBA’s efficiency from representatives of two Indigenous communities in Louisiana, this research provides information to support and inform the regulatory process of the UBA. Also, communication with the Division between tribal representatives of different legal recognition informed Louisiana’s application of the UBA with varying Indigenous descendant communities. As both interview Respondents gave instances of positive and negative feedback regarding consultation, the research goal of informing a mutually beneficial communicative process was met. While some questions received similar feedback from the two Respondents, most of the input demonstrated a stark contrast between them as representatives of a FRT and an NRT. The differences were evident on various levels, including personal experience with legal consultation for pre-Columbian burial sites, awareness of the legal process, and interactional goals for the interviews.

Speaking from the perspective of a THPO, Respondent #2 (FRT) was highly informed about the UBA and consultation practices because of their experience and awareness of state and federal heritage laws. Respondent #1 (NRT) was informed about consultation on a federal level, but not within the context of the UBA, possibly because they have not participated in consultation regarding unmarked burials on state or private land. Also, Respondent #1 spoke mostly about the federal context of burial policy and about their work with federal agencies. The representative’s aboriginal homeland is coastal adjacent and much of the coast is under federal jurisdiction, as is the case for many Native American tribes in Louisiana because of the reliance on the coast for subsistence (Rees, 2010). The Respondents’ differing perspectives and background experiences were anticipated in the literature review, but the results of the interviews demonstrate that the differences extend beyond the type of recognition the tribe possesses and
involves social issues that regulations of the UBA may address in the future. Given this complexity, the experiences of the two Respondents cannot be used to broadly represent Indigenous communities’ experiences in Louisiana as a whole.

5.1. Interview Response Rate

While the results of this research are based on two interviews and therefore cannot inform the regulatory process of the UBA on behalf of all Native American communities, the information gleaned from these conversations can still be used to draw inferences about what other Native American groups in Louisiana may also encounter and experience regarding unmarked burials or sacred sites. Although the goal to interview a representative from each type of tribal recognition status was not met, having representation from two out of the three (FRT and NRT) nevertheless was beneficial. Various social and logistical issues likely affected the level of response for participation in the interviews. Historically, anthropologists have not always had the best interest of Indigenous tribes in mind, which may have influenced the individuals contacted for this research to be wary of participating in anthropological research (Bruchac, 2018). Another possibility is that because tribal representatives often are at the center of their community’s infrastructure, directing focus to outside student research is not a top priority when other community needs take precedence.

The Respondents were given their preference for mode of interview in hopes to accommodate them for convenience and to mitigate effects of COVID-19. They were asked whether they would interview in-person, via zoom, or over the phone, and both Respondents chose to interview via phone. Recent studies on interview response rates of face-to-face v. via phone v. questionnaire are unclear as to which method has the most success in gaining participants (Bowling, 2005, Ongena & Dijkstra, 2020). Although research has shown that in-
person interviews do encourage the most authentic responses (Bowling, 2005), health during COVID-19 presented a more pressing concern.

A recent study conducted a survey with THPOs to research what tribes expect in terms of collaboration with archaeologists (Sanger et al., 2020). The survey hoped to uncover to what extent tribes were interested in working with archaeologists, and what topics they were comfortable talking about with archaeologists. The researchers distributed the survey to all of the 197 THPOs in the United States by working with the Tribal Historic Preservation Program; results showed an 18% response rate. Despite the limited results that realistically only represent a subset of opinions, most Respondents had an overall positive outlook on collaboration with archaeologists and, moreover, supported non-invasive methods (i.e., geophysical or surface surveys) of research regarding ancestral lands. The response rate for this thesis is comparable to that of the Sanger (2020) survey: a total of 13 tribal representatives were contacted, with a 15% response rate. The Sanger (2020) survey demonstrated the first systematic documentation of what tribes in the United States want from collaboration.

The results of the Sanger (2020) survey are an experiment in the methodological documentation of Native American perspectives through tribal representatives. The similarity in response rates between the study and this thesis research provides support for continuing to promote collaboration and a more holistic approach for conducting research involving Indigenous communities (Sanger et al., 2020). Of the 13 tribes contacted for interviews for this thesis, four individuals were THPOs, and nine were members of tribal government (i.e., chief, councilman, chairman). Since the present study is the only identifiable example of research seeking interviews with FRT, SRT, and NRT representatives on legal matters relating to their tribes’ sacred sites, the results suggest that further research aiming to gain perspectives on
activities that call for collaboration between anthropologists and tribal representatives need to include tribes from all levels of recognition.

Although the results of this thesis encourage the inclusion of all tribes regardless of recognition status, the difference in experiences associated with recognition status have implications for future research. The difference in the responses between Respondent #1 (NRT) and #2 (FRT) may indicate whether the UBA as currently written encourages participation with all types of tribes (i.e., FRTs, SRTs, and NRTs) in Louisiana. Additionally, the government possesses legal documentation of FRTs and SRTs and thus, these tribes have a more accessible culture history for SHPOs and project managers to access when assessing land impact possibilities. For these reasons, it is essential to distinguish recognition types in future research because each has different political structures, federal/state government relations, and tribal history from which to draw perspectives.

5.2. The Interview as a Speech Event

In this research, the Respondents were prepared with topics and experiences that they wanted to address during the conversation, resulting in a less traditional relationship between interviewer and Respondent than anticipated. Since the interview as a speech event is viewed through different lenses by the two parties, establishing a mode of importance to the research process was necessary for me to maintain an organized format. The interactional goals of the Respondents appeared to be to present their perspectives, experiences, and suggestions based on the context of the initial contact request (Appendix B). These goals contrasted with the interactional goals of the interviewer since specific questions were designed to build off of each other in sequence. Instead, though inadvertently applied, I approached the interviews with a conversational manner in order to match the energy of the consultants. Despite the unanticipated
nature of the interviews, literature discussing conversation in interviews stresses the importance of rapport-building in order to improve accuracy and authenticity of responses (Belli et al., 2013). Furthermore, interviews of a sensitive nature (e.g., discussion about human burial preservation) benefit from a less-structured approach so as to build trust between the interviewer and respondent (Sun et al., 2020). This approach was helpful as well in mitigating the concerns regarding authenticity of responses because the interviews were conducted via phone instead of in person (Bowling, 2005).

When conducting interviews, part of the interviewer’s responsibility to collect informed responses is to engage in a manner of speech that encourages dialogue that the Respondent can participate in comfortably. Multiple roles of participants in the interview as interlocutors can also affect expectations and resulting conversations due to the differing motivations for the interaction (Kramsch, 2020). For example, as interlocutors, the individuals being interviewed for this study assumed the role of consultant, Respondent, and tribal representative; I adopted the roles of anthropologist and interviewer. Additionally, interlocutor roles are dependent on the researcher’s interpretation of them; therefore, individuals being interviewed may have a different view of their role in the interview (Briggs, 1986; Hill, 2006). For this study, engaging in a conversational exchange as the interviewer rather than attempting to maintain control over the organization of the interview was preferable to document tribal representatives’ perspectives of UBA on their terms. Being open to the organic flow of the conversation and accepting the Respondent’s preferred mode of communication resulted in a better understanding of the issues from a Native American standpoint (Briggs, 1986).

Lastly, unforeseen roles arose for me in addition to anthropologist and interviewer: it became clear through the conversational manner of the interview that I was also more simply a
listener and student. Respondent #2 (FRT) had the goal of sharing their experiences with an interested party as much as they wanted to inform the regulatory process of the UBA. Similarly, Respondent #1 (NRT) provided information on federal consultation and established their position as a tribal councilman, educating a student on the effects of anthropology on Native American communities through academia. This understanding of differing tribal positions and statuses, and how they relate to individual experience, interactional goals, and interlocutor roles allowed for a more informed view of Native American community perspectives.

5.3. Applied Unmarked Burial Site Policy

The literature review, analysis of the interviews and permits, and discussion of the results all indicate there is a distinct separation of federal and state policies regarding mitigation of unmarked burial sites and their materials, despite the UBA being a state-level response to federal legislation. Similarly, there is no specification in the UBA as to which types of descendent communities it applies, despite a tendency for application to FRTs regarding remains and sites from pre-Columbian context. Furthermore, the UBA models NAGPRA in the similar way it allows claims for repatriation by groups without federal recognition (Seidemann, 2010). However, this intention seems to be underutilized based on the assessment of permit records and the interview with Respondent #1 (NRT). No SRTs and NRTs participated in the UBA based on the information collected in this research. In the interviews, Respondent #1 talked of instances where their tribe was included in consultations of federal context and were insistent on establishing that their tribe was on the tribal contact list for the SHPO’s office. In consultations, they described the consultations and the issues they face in federal context. History between tribes appears as more of a source for conflict than consultation practices regarding archaeologists. Authenticity was important to Respondent #1 as most NRTs lack extensive
written culture histories. The inter-tribal animosity Respondent #1 describes, and lack of historical documentation (in their word, “ignorance”) warrants further discussion.

As suggested by the lack of SRT and NRT inclusion in the analysis of the UBA permits, the permitting process may inadvertently favor FRTs over other tribal statuses. In discussing participation in burial site consultation with the tribal representatives, Respondent #2 (FRT), as a FRT representative, had much experience working with the state. Respondent #1 (NRT), as an NRT representative, was less clear on their relationship with the state. This lack of clarity could have been because their position in the tribe was not as a contact for state-level concerns, but still, their experiences recounted all involved federal-level consultation. Participation of a SRT representative in future research may reveal possibilities for the reasons behind the difference in consultation and permitting experience between the FRT and NRT representatives. However, as no SRTs were involved in the UBA permits examined for this study, it may also be inferred that SRT involvement with consultation under the UBA is, at minimum, less than FRT involvement.

5.4. Informing the Regulatory Process

5.4.1. Tribal Recognition and Consultation Involvement

Including SRTs and NRTs in more consultation regarding burials that fall under the UBA may require more historical and geographical documentation for the tribes so that unmarked burials discovered in explicit temporal and spatial contexts align with respective descendent communities. However, according to the U.S. Bureau of Indian Affairs, this documentation requires extensive archaeological, historical, genealogical, and geographical analysis that requires professional assistance in many cases (“Office of Federal Acknowledgement,” 2021). As marginalized minorities in their aboriginal homeland, assistance in developing documentation may not be financially attainable.
Native American tribes of different recognition statuses have different opportunities for consultation based on their involvement with federal and state governments, as well as opportunities for funding provided by the government. The federal government’s Bureau of Indian Affairs provides grant opportunities to support economic endeavors and provides social services to FRT members (“Indian Affairs,” n.d.). Louisiana’s state office of Indian Affairs also offers grant and scholarship opportunities for SRT members (“Indian Affairs,” 2021). The tribal recognition petition process is criticized by archaeologists and cultural anthropologists as not being objective or neutral, but rather as being arbitrary, combative, and overly complex since the criteria for presenting historical and scientific supporting data are nearly impossible for tribes without the funds to provide this data (Crepelle, 2016; Fletcher, 2009; Klopotek, 2011). Without funds or assistance to provide support for data collection to gain full acknowledgment from the U.S. government, consultations involving NRTs likely will continue to be as Respondent #1 (NRT) described the experience.

5.4.2. Unmarked Burials on Private Property

Despite expressing that the results of consultation varied depending on their relationship with agencies involved, both tribal representatives voiced that they were content with their level of involvement in consultation. Suggestions made by the tribal representatives focused more on control over the preservation and protection of remains situated on private property. According to the UBA, the Division has regulatory authority over unmarked burials on private property. Additionally, Louisiana Criminal Code R.S. 14:101 sanctions that desecration of a grave (i.e., disturbance or displacement of human remains or associated burial objects) is punishable by fine or imprisonment. Though the law may not have been intended to apply to unmarked burials in pre-Columbian context, it nevertheless applies to any location of a deceased human in Louisiana
(Seidemann & Moss, 2009). However, when disturbance of an unmarked burial involves “Criminal Trespass” according to L.A. R.S. 14:63, as might be the case with looting, the landowner may file charges, but the burden of prosecution lies with the District Attorney. There are no statutes addressing mandatory charges based on needs from affected communities. As stated by Respondent #2 (FRT), if the tribes with a cultural, genealogical, or geographical affiliation to unmarked burials had more legal authority, the UBA’s goal of preservation could be more effective.

5.4.3. Resources

Since Louisiana private property laws prevent tribes from filing charges for crimes involving unmarked burials, incentives for landowners to preserve sacred sites on their land may promote a more practical application of the UBA. As a THPO, Respondent #2 (FRT) had suggestions for incentives based on their experiences with landowners. Specifically, the state government could consider offering competitive grants or tax write-offs to assist landowners in securing sacred sites. The financial burden for the protection of sites can be substantial for landowners, one they may not be willing or able to incur, especially if they have no personal interest in Native American sacred sites or had no knowledge of the sites before purchasing the property. Another suggestion by Respondent #2 was to implement a state-funded program that allocates resources to Native American sacred places that need to remain anonymous to be preserved. Sometimes if a site location is marked or made public, it can attract more people to it who cause more damage than if the sites were not identified.

In further discussion of resources provided by the state, there was some contradiction in the qualitative data regarding what was available to consulting parties. Respondent #1 (NRT) expressed that they were not very familiar with the UBA and only knew about it from instances
where someone they knew could have enacted the law but was unaware it existed. Similarly, Respondent #1 seemed unclear about the UBA and what it could do for their tribe. In contrast, Respondent #2 (FRT) praised the Division for how accessible and available their resources are.

As a resource for Native American communities, CRM firms, academics, and the general public, the Division of Archaeology’s webpage has links to lists of regularly updated federal, state, and non-recognized tribes and their point of contact information, as well as a list of all CRM firms that have a license to operate in Louisiana. They also provide links to relevant federal and state legislation that pertains to cemeteries, burials, and archaeological investigations, extensive explanations of permitting processes, and descriptions of the Division’s responsibilities regarding archaeological investigations, cemeteries, and burials (“Division of Archaeology,” 2021).

Louisiana’s Division Archaeology is a model for state archaeology departments, as the current head of the Division, State Archaeologist Dr. Charles McGimsey, III, is a leading influence on the development of public archaeology and implementation of state archaeological standards (Doershuk & McGimsey III, 2010; McGimsey III, 1972). The National Association of State Archaeologists follows McGimsey’s recommendations for public archaeology and state archaeology programs, and each of the United States’ State Archaeologists are suggested to follow his recommendations as well (“National Association of State Archaeologists,” 2020). Even though the United States needs more inclusive procedures that make Native American sacred site preservation more effective, Louisiana provides a model for progress, fosters an environment conducive for public archaeology, and encourages collaboration and consultation with descendent communities.
CHAPTER SIX. CONCLUSIONS

Louisiana provides a unique opportunity to study the efficiency of burial site preservation policy on a state level. While federal legislation such as the NHPA, NEPA, and NAGPRA provides guidelines for consultation and collaboration with federally recognized Native American communities regarding their ancestral lands and associated pre-Columbian burial sites, the Louisiana UBA attempts to ensure that tribes without federal recognition participate in the preservation and protection of their culturally affiliated burial sites. By documenting the perspectives of tribal representatives from Louisiana Native American communities and assessing the application of UBA permits, this research explored the efficiency and effectiveness of the UBA and Native American consultations with the Division. Furthermore, this research recorded suggestions for the regulation of the UBA on behalf of the tribal representatives.

The results of the qualitative interview data showed that the FRT representative was more informed of the consultation processes of the UBA and, therefore, was able to provide valuable suggestions for the regulatory process of the UBA as well as how Louisiana can improve the protection and preservation of unmarked burial sites. Respondent #2’s (FRT) experience as a THPO demonstrated that the UBA could be more effective if Native American communities were able to have more control over unmarked burials on private property. Also, because landowners have few incentives to fund preservation efforts of unmarked burials on their property, the state could consider implementing programs to assist tribes and landowners with the costs of preservation. Lastly, the state also could enact legislation that provides Native American communities a mechanism to ensure criminal charges are pressed against looters and other individuals or agencies who disturb unmarked burials without proper permitting.
This research demonstrated the difference in how tribes of different recognition statuses are consulted and how they view burial policy such as the UBA and NAGPRA. The FRT representative was knowledgeable of federal and state legislation and consultation procedure, and they were pleased with their relationship with the Division. The NRT representative was familiar with federal consultation, but unfamiliar with state legislation and had little communication with the Division. Because only two tribes participated in this research, the results should be viewed simply as the respective tribes’ experiences, rather than as applicable to all Louisiana-affiliated tribes. However, the variation in awareness between FRT and NRT tribes exhibited in this research demonstrates that when conducting research in which Native American communities with varying governmental associations are involved, distinguishing recognition status is imperative because their experiences and views of policies differ based on relationships with the government.

Future research endeavors may investigate the perspectives of Native American communities on state legislation on a national scale, and ideally could document perspectives that are more indicative of Native Americans as heterogeneous tribal communities that extend beyond contemporary geopolitical (i.e., city, county, state) boundaries. Native American communities, even only within Louisiana, are highly diverse. State-wide perspectives can be informative of a general outlook for opinions of the Native American population, but the difference in opinions and treatment explored in this research demonstrates the individuality of different tribes’ experiences. Furthermore, a deeper analysis of what factors affect the variation between tribes of different recognitions and government relations could inform legislation to include them more holistically in consultation and collaborative research efforts. Louisiana
provides a setting for such studies based on the Division’s focus on providing a model for public archaeology.
APPENDIX A. IRB APPROVAL FORM

LSU Office of Research & Economic Development

TO: Listi, Ginesse Adrienne
   LSUAM | Col of HSS | Geography and Anthropology
FROM: Paul Mooney
       Associate Chair, Institutional Review Board
DATE: 16-Apr-2021
RE: IRBAM-21-0496
TITLE: A Qualitative Analysis of Native American Tribes' Perspectives of The Louisiana Unmarked Human Burial Sites Preservation Act
SUBMISSION TYPE: Initial Application
Review Type: Expedited Review
Risk Factor: Minimal
Review Date: 16-Apr-2021
Status: Approved
Approval Date: 16-Apr-2021
Approval Expiration Date: 15-Apr-2022
Re-review Frequency: Annually
Number of subjects approved: 6
LSU Proposal Number: [Redacted]

By: Paul Mooney, Associate Chair

Continuing approval is CONDITIONAL on:

1. Adherence to the approved protocol, familiarity with, and adherence to the ethical standards of the Belmont Report, and LSU’s Assurance of Compliance with DHHS regulations for the protection of human subjects;
2. Prior approval of a change in protocol, including revision of the consent documents or an increase in the number of subjects over that approved.
3. Obtaining renewed approval (or submittal of a termination report), prior to the approval expiration date, upon request by the IRB office (irrespective of when the project actually begins); notification of project termination.
4. Retention of documentation of informed consent and study records for at least 3 years after the study ends.
5. Continuing attention to the physical and psychological well-being and informed consent of the individual participants, including notification of new information that might affect consent.
6. A prompt report to the IRB of any adverse event affecting a participant potentially arising from the
study.
8. **SPECIAL NOTE:** When emailing more than one recipient, make sure you use bcc. Approvals will automatically be closed by the IRB on the expiration date unless the PI requests a continuation.

*All investigators and support staff have access to copies of the Belmont Report, LSU's Assurance with DHHS, DHHS (45 CFR 46) and FDA regulations governing use of human subjects, and other relevant documents in print in this office or on our World Wide Web site at [http://www.lsu.edu/research](http://www.lsu.edu/research).

Louisiana State University
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O 225-578-5833
F 225-578-5983
[http://www.lsu.edu/research](http://www.lsu.edu/research)
APPENDIX B. INITIAL CONTACT REQUEST

Dear ______________,

I hope this email finds you healthy and happy. My name is Sadie Schoeffler, and I’m writing to ask for your help in understanding how the legal system of consultation with Native American tribes in Louisiana can be improved.

If possible, I’d like to interview you or a colleague to represent the __________________’s experiences with the L.A. legislature, about how efficiently consultations and Louisiana laws protecting sacred sites are serving the needs Native American tribes. Your tribe’s participation in an interview about your perspectives and experiences regarding legal processes will provide documented insight into how the state can better protect sacred sites and promote communication.

Once the interviews are conducted, my goal is to provide the results to all the Native communities concerned with Louisiana to have a holistic view of how each tribal entity is communicated with and what their particular experiences with consultations/sacred site legislatures are.

If you or someone you know in the ____________ were able to participate in an interview, I would be more than happy to speak more about the interviews and goals. I am trying to conduct interviews __________. If any day in the week of _________ works for you, I’d be more than happy to come to you or talk via phone/zoom.

Please let me know if we can speak more about your participation,
Sadie
APPENDIX C. INTERVIEW STRUCTURE

1. How familiar are you with the Louisiana Unmarked Burial Sites Protection Act?
2. What is your experience with consulting and the Unmarked Burial Act?
3. How would you describe your relationship with the Division of Archaeology?
4. What is the extent of your involvement in consultation when the Division of Archaeology contacts you about a sacred site that might be associated with your tribe?
5. Why or why not do you think that the UBA does its duty in protecting your tribe’s sacred sites?
6. How has the Unmarked Burial Act helped you protect any sacred sites associated with your tribe?
7. How do you feel about the outlook for the protection of a sacred site after the consultation process is over?
8. Do you feel that your participation in the consultation process affects the outcome of the situation?
9. What would you change about the consultation process regarding the Unmarked Burial Act?
10. What is your experience with heritage laws outside of Louisiana, such as NAGPRA?
### APPENDIX D. LISTS OF LOUISIANA AFFILIATED TRIBES

**Table D.1. Federally Recognized Tribes**

<table>
<thead>
<tr>
<th>Tribe Name</th>
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</thead>
<tbody>
<tr>
<td>Alabama Coushatta Tribe of Texas</td>
</tr>
<tr>
<td>Caddo Nation</td>
</tr>
<tr>
<td>Chitimacha Tribe of Louisiana</td>
</tr>
<tr>
<td>Choctaw Nation of Oklahoma</td>
</tr>
<tr>
<td>Coushatta Tribe of Louisiana</td>
</tr>
<tr>
<td>Jena Band of Choctaw Indians</td>
</tr>
<tr>
<td>Mississippi Band of Choctaw Indians</td>
</tr>
<tr>
<td>Quapaw Tribe of Oklahoma</td>
</tr>
<tr>
<td>Seminole Nation of Oklahoma</td>
</tr>
<tr>
<td>Seminole Tribe of Florida</td>
</tr>
<tr>
<td>Tunica-Biloxi Tribe of Louisiana</td>
</tr>
<tr>
<td>Muscogee (Creek)</td>
</tr>
</tbody>
</table>


**Table D.2. State Recognized Tribes**

<table>
<thead>
<tr>
<th>Tribe Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addai Caddo Indians of Louisiana</td>
</tr>
<tr>
<td>Biloxi Chitimacha Confederation/Bayou Lafourche Band</td>
</tr>
<tr>
<td>Choctaw-Apache Tribe of Ebarb</td>
</tr>
<tr>
<td>Clifton Choctaw Tribe of Louisiana</td>
</tr>
<tr>
<td>Four-Winds Cherokee Tribe</td>
</tr>
<tr>
<td>Grand Caillou/Dulac Band</td>
</tr>
<tr>
<td>Isle de Jean Charles Band</td>
</tr>
<tr>
<td>Louisiana Band of Choctaw Indians</td>
</tr>
<tr>
<td>Point au Chien Tribe</td>
</tr>
<tr>
<td>United Houma Nation</td>
</tr>
</tbody>
</table>

Sources: (“Federal and State,” 2019)

**Table D.3. Non-Recognized Tribes**

<table>
<thead>
<tr>
<th>Tribe Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apalachee Talimali Band of Louisiana</td>
</tr>
<tr>
<td>Atakapa-Ishak Nation</td>
</tr>
<tr>
<td>Chahta Tribe</td>
</tr>
<tr>
<td>Louisiana Choctaw Turtle Tribe</td>
</tr>
</tbody>
</table>

Sources: (“List of Federally,” 2016)
APPENDIX E. UBA PERMIT

Department of Culture, Recreation and Tourism
Office of Cultural Development
Division of Archaeology
Unmarked Human Burial Sites Permit

BE IT KNOWN, that on the 23rd day of June 2020, the Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of Archaeology (hereinafter referred to as the “Division”) issues a permit in accordance with § 676.C of the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 – 681) for disinterment, study, and reinterment of unmarked human remains to [Redacted], and [Redacted]. This permit will allow disinterment, physical anthropological analysis, and reinterment of American Indian human remains and associated grave goods that may be encountered during the excavation of site [Redacted], as stipulated in the proposal (Addendum A), attached hereto and made a part hereof, submitted to the State on 1 March 2019, and reviewed prior to 1 January 2020, by the Division. The conditions of this permit are as follows:

1. The permit recipient is responsible for recording, cleaning, cataloging, and preserving all human remains, artifacts, specimens, and samples. Cataloging will be accomplished in accordance with the Standards and Guidelines for Curation of Archaeological Collections, established by the Division in 2018.

2. A copy of all excavation, analysis and documentation records pertaining to the burials and associated grave goods will be curated with the Division upon acceptance of the excavation report by the Division.

3. The results of investigations of any burial will be incorporated into the larger report describing the Phase III investigation of [Redacted]. The report will meet the standards of the Division.

4. The human remains and any associated grave goods will be reinterred at a location to be agreed upon by the signatories to this permit.

5. The permit is granted for the period of one year from the date of issuance.

6. If the permit recipient fails to comply with the permit, fails to meet or ensure professional or occupational standards, or fails to conduct fieldwork properly, or to complete the project, the Division may revoke or suspend the permit upon giving notice to the permit recipient. In this event, the permit recipient shall cease work immediately and vacate the area or site within 24 hours, including removal of all personnel and equipment. The permit shall be returned to the Division within 15 days of the date on which the notice of revocation or suspension was received. Through termination of a permit, the permit recipient forfeits all rights, as herein provided, to the specimens and data recovered. The permit recipient shall have 30 days from the date of cancellation of said permit to appeal in writing to the Division in order to show good cause why the permit
should be reinstated.

7. The permit recipient will adhere to all rules and regulations of the Division, as promulgated in the Louisiana Register, Volume 20, Number 4, April 20, 1994, and as outlined in the Archaeological Code of Louisiana.

8. No permit issued by the Division may be transferred in whole or in part to any other institute, museum, corporation, organization, or individual without the express written approval of the Division.

9. This permit goes into effect on (7-1-20). The permit recipient will notify the Division when fieldwork begins so a site inspection can be made.

The above and company agree to abide by the conditions as stated above and the attached Scope of Work (Addendum A).

______________________________
Principal Investigator

______________________________
CRM Firm

WITNESS: ________________________

APPROVED: ________________________

______________________________
Tribal Historic Preservation Officer

WITNESS: ________________________

APPROVED: ________________________

______________________________
Dr. Charles R. McGimsey
State Archaeologist

Date
REFERENCES


VITA

Sadie Marie Schoeffler was born and raised in Lafayette, Louisiana. She attended the University of Louisiana at Lafayette (ULL) from 2015-2019 as an undergraduate, graduating Cum Laude in May 2019 with a Bachelor of Arts in Anthropology and a minor in Applied Forensics. Following graduation, she worked for the Louisiana Public Archaeology Lab at ULL from 2020-2021 as an Archaeological Technician. Having enjoyed working in various anthropological settings, she plans to pursue a career that focuses on anthropology or archaeology in Louisiana. She anticipates graduating with a Master of Art in Anthropology from Louisiana State University in May 2022.