IPinCH
Intellectual Property Issues in Cultural Heritage:
Theory, Practice, Policy, Ethics

IP and Research Ethics Working Group

Who We Are

Dr. Sonya Atalay
Assistant Professor, University of Massachusetts Amherst

My research relates to Indigenous archaeology—particularly the use of community-based participatory research designs, applications of Indigenous forms of heritage management and stewardship, reburial and repatriation (including NAGPRA), and the ethics of community and public collaboration. I am Anishinabe-Ojibwe and collaborate with the Saginaw Chippewa's Ziibiwing Cultural Society on the IPinCH project at the Sanilac petroglyph site called *ezhibiigaadek asin*.

Dr. Alison Wylie
Professor, University of Washington

I am a philosopher of science who works on epistemological questions raised by archaeological practice and by feminist research in the social sciences. I am also actively interested in developing models of accountable, reciprocal, and collaborative research practice relevant both to feminist research in the social sciences, and to debates about ethics issues in archaeology.

Davina Two Bears
PhD Candidate, Indiana University

I am Diné (Navajo). My clan is *Tódích'íi'nii*, "Bitter Water Clan," born for the *Táchii'nii*, "Red Running into the Water Clan." I come from northern Arizona. My dissertation research focuses on the oral history of an early 20th century Navajo Indian Boarding School - the Old Leupp Boarding School. This school was also used as a Japanese Isolation Center in 1943. I am interested in the daily lives of both the Navajo children and Japanese prisoners, and how they maintained their identity, language and culture.

Dr. Dru McGill
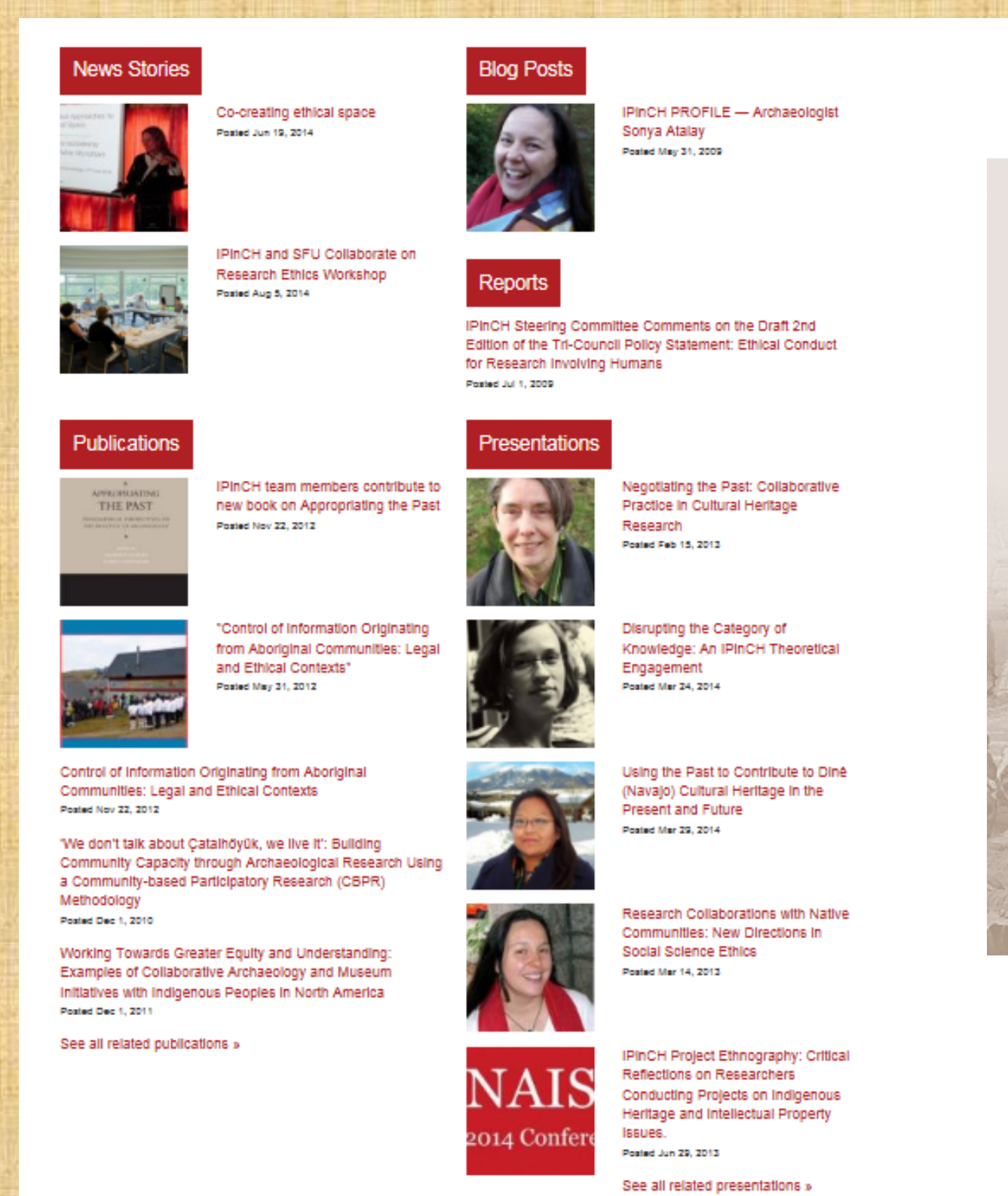Curator, Glenn Black Laboratory at Indiana University

I am a North American archaeologist, specializing in the analysis of craft-ways among pre-Columbian Native American communities in the Midwest. My interests also extend to cultural property law and archaeological ethics, particularly ethics education. I am the Chair of the Society for American Archaeology Committee on Ethics, and an Executive Officer of the World Archaeological Congress.

Activities and Outputs

IPinCH Knowledge Base
Intellectual Property Issues in Cultural Heritage:
Theory, Practice, Policy, Ethics

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2379	Document	The Society of American Archivists. 2005. Code of Ethics for Archivists. . .
2380	Document	Society for American Archaeology. 1996. Principles of Archaeological Ethics. . .
2381	Document	The Society for Economic Botany Inc. 1995. Guidelines of Professional Ethics. . .
2382	Document	Society for Applied Anthropology . Ethical and Professional Responsibilities. . .
2383	Document	American Association of Museums. 2009. Standards and Best Practices for Museums. . .
2384	Document	The American Folklore Society. 1988. A Statement of Ethics for the American Folklore Society.
2385	Document	Canadian Archaeological Association/Association Canadienne d'Archéologie . Statement of Principles for Ethical Conduct Pertaining to Aboriginal Peoples.
2386	Document	The American Folklore Society . Statement of the American Folklore Society on Research with Human Subjects. . .
2387	Document	World Tourism Organization. 1999. World Tourism Organization Global Code of Ethics for Tourism. . .
2399	Document	California Department of Transportation. 2005. Guidelines for Memoranda of Agreements. . .
2400	Document	Oregon Department of Transportation. 2003. Draft Memorandum of Agreement Among the Federal Highway Administration (FHWA), Oregon State Historic Preservation Office (SHPO), and the Oregon Department of Transportation (ODOT) for Mitigation for the Project. Oregon.
2401	Document	Texas Parks and Wildlife Department . Levi Jordan Plantation Historical Society. 2005. Memorandum of Agreement.
2402	Document	Government of Peru, Yale University. 2007. Memorandum of Understanding.
2403	Document	Federal Highway Administration, California Department of Transportation, San Diego County Department of Parks and Recreation. 2004. Memorandum of Agreement Santa Ysabel East Ranch Land Acquisition and Fulfillment of Responsibilities under the National Environmental Policy Act.
2404	Document	Government of the United States of America, Government of the United Mexican States, Government of Canada. 2009. Memorandum of Understanding on Cooperation for Wilderness Conservation.
2405	Document	Government of the United States of America, Government of the People's Republic of China, 2009 . Memorandum of Understanding Concerning the Imposition of Import Restriction on Categories of Archaeological Material from the Paleolithic Period through the Tang Dynasty and Monumental Sculpture and Wall Art at Least 250 Years Old. . .
2406	Document	Government of South Australia, Aboriginal Legal Rights Movement Inc. 2004. (Native Title Claim Group) Outback Areas Indigenous Land Use Agreement Template.
2410	Document	Cochran, Patricia . ANSC Research Ethics Sample MOA. . .
2411	Document	City of Albany. 2003. City of Albany Aboriginal Accord. . .
2412	Document	South West Aboriginal Land and Sea Council . Heritage Protection Agreement.
2414	Document	South Australian Farmers Federation . 2004. Example Pastoral Indigenous Land Use Agreement. . .

http://www.sfu.ca/kbipinch/

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COMMUNITY-BASED ARCHAEOLOGY
Research with, by and for Indigenous and Local Communities

ETHICS IN ACTION
CASE STUDIES IN ARCHAEOLOGICAL DILEMMAS
CHIP COLWELL-CHANTHAPHONH
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MATERIAL EVIDENCE
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TRANSFORMING ARCHAEOLOGY
activist practices and prospects
SONYA ATALAY LEE RAINS CLAUSS RANDALL H. McGUIRE JOHN R. WELCH editors

NAIS 2014 Conference

Memorandum of Agreement (MOA) and Understanding (MOU)

What is a MOA?
A document describing the terms of a cooperative agreement between two or more parties, as well as the goals of the cooperation. A MOA typically marks the beginning of a collaborative project, and is an opportunity for stakeholders to outline their visions, conduct debates, and resolve issues.

Why Craft a MOA for a Cultural Heritage Project?
All cultural heritage projects, whether they are education, research, or advocacy focused, include multiple stakeholders exchanging resources, such as time and knowledge. Crafting a MOA will promote exchanges that are fair, equitable, and culturally appropriate to all parties involved.

Where to Begin
The process of crafting, revising, and executing a MOA, not the signed document itself, leads to relationship building and successful collaborations. Parties involved in a collaborative project should meet, preferably face-to-face, to work together on a MOA outline. Once a community has created a Cultural Heritage MOA, it can be used as a template for future projects involving cultural resources, to be customized as needed for each project or to address different concerns.

A Simple MOA Outline
I. Purpose and Background - A History of the Relationship
II. Definition of Terms and Parties - Who is Involved?
III. Statement of Mutual Benefit and Potential Harms
IV. Agreed Upon Actions and Responsibilities
V. Modification and/or Termination of the MOA
VI. Timeline for Action and Future Meetings
VII. Signatures

This Memorandum is Understanding is

Between:

The Flinders University of South Australia ("Flinders University") (ABN 65 542 596 200) a body corporate established pursuant to the provisions of the *Flinders University of South Australia Act* 1966, having its principal office at Sturt Road, Bedford Park, South Australia, Australia.

And:

The Institute of Nautical Archaeology ("INA") a non-profit corporation established in Pennsylvania in 1972 having its principal office at College Station, Texas, USA.

1. **DEFINITIONS**
In this memorandum:

'Confidential Information' means all trade secrets and know-how (such as a formula, method, technique, or process), financial information and other commercially valuable information of whatever description and in whatever forms (whether written or oral, visible or invisible).

'Contact Officer' means the persons specified in the Schedule

'Initiatives' means the activities set out in the Schedule

'Intellectual Property' means any proprietary right which arises under, or is capable of being obtained under, legislation relating to copyright, patents, designs, circuit layouts or plant varieties, or which otherwise exists at law, including trade secrets, know how and other confidential information and registered and unregistered trade marks (including service marks), registered designs and trade names.

'Parties' means Flinders University and INA, their heirs, successors and assigns

'Term' means the term specified in the Schedule

2. **RELATIONSHIP**
Each Party acknowledges that:
a) this memorandum is intended to facilitate collaboration and is not legally binding in itself;
b) it has no right to bind the other Party in contract or otherwise at law and must not represent that it has;
c) nothing in this memorandum constitutes a relationship of partnership, or employer and employee between Flinder Universitys and INA; and

Codes and Principles of Research Ethics

- We collected and published to the IPinCH Knowledge Base over 70 professional codes of ethics or similar documents
- Disciplines represented include: archaeology, anthropology, ethnobotany, history, folklore, archivists, sociology, and tourism
- The codes reflect the visions of their authors, the times of authorship, and the degree to which various disciplines have considered Indigenous rights or collaborative research in their work
- There are many shared values and ethics between professional codes and statements on Indigenous rights (e.g. UN Declaration on the Rights of Indigenous Peoples, 2007), such as:

Respect	Accessibility	Reciprocity	Education	Cultural Sensitivity	Heritage Preservation	Prudence	Recognition	Generosity

- Shared goals of researchers and Indigenous communities include:

Acting Admirably	Cultivating virtues in our communities	Working towards justice and autonomy	Caring for others

What's Next?

Ethics Ethnohistory
A longer term goal of our Working Group is to develop a comparative and historically informed appreciation of the particular contexts and research needs in response to which now dominant norms of ethical best practice have taken shape in archaeology. The ethics ethnohistory project we propose will document these contingencies with the aim of opening space for developing new, situationally appropriate research guidelines, and providing guidance for emerging ethics dilemmas. We anticipate that the challenges, and positive models of collaborative practice emerging in response to IP issues will play a key role in informing future directions and adaptations of archaeological ethics.

Ethics Revision
The Society for American Archaeology is considering revision to its Principles of Archaeological Ethics, the most cited ethical resource in archaeology. We will monitor these revisions and make suggestions that the new SAA Principles be more responsive to concerns of Indigenous rights, intellectual property, and other IPinCH related issues.

CBI Consultation
A primary mission of the IP and Research Ethics Working Group has always been to build a set of useful resources for archaeologists and Indigenous peoples who grapple with IP ethics issues, with a focus on the special demands and rewards of collaborative research practice. We hope to distill from the gained wisdom of IPinCH Community-Based Initiatives (CBIs) the ethical issues that arose during these projects and the ways these issues were dealt with. Consulting with CBI participants will help our Working Group determine where effective ethical guidance is available to practitioners and Indigenous community members and where ethical guidance is lacking in order to brainstorm new concrete ways to connect with, embody, and enact ethical principles related to IP and cultural heritage.

Contact Us!
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