

## **Collections Provenance Policy and Guidelines**

Approved by the Board of Trustees, May 3, 2023

Provenance research is at the core of the Museum's mission to collect, preserve, interpret, and exhibit objects ethically and responsibly for the benefit of present and future generations. Research on provenance is a critical part of the Museum's curatorial practice that supports a work's authenticity, history, and legitimate ownership. Provenance research is central to the Museum's commitment to legal and ethical collecting practices, principles of cultural patrimony, and adherence to all applicable U.S. and international laws, related conventions and treaties, and professional best practices put forth by American Alliance of Museums (AAM) and the Association of Art Museum Directors (AAMD). These commitments are additionally supported by the Museum's existing Collection Management Policies (CMP).

The following policy and guidelines govern the Denver Art Museum's commitment and staff responsibilities regarding collections provenance, provenance research, and related consultations, claims and public transparency.

### **A. Responsibilities**

1. The Denver Art Museum Administration is committed to supporting resources and timeframes that ensure ongoing provenance research for incoming acquisitions, loans, and existing collections.
2. Curators and Curatorial staff, in collaboration with the Provenance Department, are responsible for ensuring provenance information for incoming acquisitions, loans and existing collections is researched thoroughly and evaluated in the most expeditious timeframe possible. Curators and Curatorial staff in consultation with the Provenance department are responsible for securing, verifying and further researching provenance information from donors, dealers or related for incoming acquisitions, ensuring information appears on all acquisition approval forms, bills of sale, and deeds of gift and further documenting provenance research and public provenance statements according to institutional standards and formats. In consultation with Curatorial Department Heads, the Provenance Department is responsible for researching and identifying existing museum collections with provenance concerns and notifying the Chief Curator for presentation and review by the Provenance Committee.

3. The Provenance Committee, in existence since 2013, holds a central role in reviewing and advising on all collection provenance matters. Membership is determined at the discretion of the Director and includes the Director, Deputy Directors, Chief Curator, Chief of Exhibition and Collection Services, Director of Communications and the Provenance Researcher. The Committee meets regularly, or as required, to review and update policies, procedures and communications regarding collections provenance; advise and make recommendations on collection provenance priorities or concerns for incoming acquisitions, loans and existing collections; review and advise on public postings of collections; and make recommendations in addition to facilitating, with advice of legal counsel, all claim or repatriation requests. The Provenance Researcher under advisement of the Chief Curator or Director initiates agendas, meeting dates, and notes for Committee members as requested.
4. The Director, or Board of Trustees, upon recommendation of the Collection Committee and as outlined in the Museum's CMP, remain responsible for approval for all incoming acquisitions and loans that includes consideration for accompanying provenance information as well as approving all deaccessions related to claim or repatriation requests.

#### B. Research Focuses and Considerations

Provenance research remains an ongoing process with priorities of research focusing on incoming acquisitions, loans, and existing collections. Special attention will be placed on works with incomplete provenance and identifying collections that may be subject to legal, professional, or ethical considerations including but not limited to the following:

1. NAGPRA: Works of art and culturally sensitive works that fall under requirements of the Native American Graves and Repatriation Act (NAGPRA). Staff is required to adhere to principles outlined in the Museum's NAGPRA **Policy on Collection Use and Repatriation of Cultural Items** originally approved in 1994. Works requiring Provenance Committee consideration include the following culturally sensitive materials:
  - a. Works comprising ancestral remains
  - b. Associated and unassociated funerary works
  - c. Works that may be considered sacred
  - d. Works that may be considered cultural patrimony

2. Nazi-Era: Works of art that were in continental Europe between 1933-1945 that may have been unlawfully appropriated during the Nazi-Era. Staff are required to adhere to principles and guidelines outlined by AAM and AAMD policies and guidance documents and DAM's ***Policy on Works of Art Unlawfully Appropriated in the Nazi/Holocaust Era (1933-1945)*** originally approved in 2000. Works requiring Provenance Committee consideration include but are not limited to the following circumstances:
  - a. Works known to have been in continental Europe with provenance history gaps between 1933-1945
  - b. Works listed or suspected to be listed on stolen art databases: i.e. Looted Art ([www.lootedart.com](http://www.lootedart.com)) and Lost Art ([www.lostart.de/de/start](http://www.lostart.de/de/start))
  - c. Works with prior owners, collectors, dealers or auctions records recorded on known red flag lists including associated with the Art Looting Investigation Unit (ALIU) list

Relevant works known to have been in continental Europe with gaps in provenance history between 1933 – 1945 will be posted with known provenance on the Museum's website in as expeditious a timeframe as possible.

3. Antiquities: Works of art that fall under current *AAMD Guidelines for Acquisition of Archaeological and Ancient Art* which lack documented provenance that demonstrate work was outside probable country of modern discovery prior to 1970 or when evidence suggests work was unlawfully acquired, or illegally exported and imported contrary to U.S. law.

Factors to consider in evaluating works requiring Provenance Committee review include but are not limited to the following:

- a. Works imported contrary to U.S. law
- b. Works lacking documented provenance that demonstrate object was outside country of modern discovery or legally exported prior to November 17, 1970 (date of adoption of the UNESCO convention)
- c. Works known to be exported after establishment of a country of origin's national patrimony law vesting ownership

Other circumstances to consider in evaluating collections that may require Provenance Committee review can include a combination of multiple factors below, such as:

- a. Works associated with dealers or collectors under indictment or conviction or on red flag lists
- b. Works with no documented provenance prior to donation or vague or opaque provenance that do not identify past owners
- c. Works associated with ICOM red lists of locations and archaeological objects at risk, including known areas and object categories that have undergone documented looting, or are from areas exposed to wars, internal conflict or civil unrest
- d. Original condition documentation that documented the presence of dirt, encrustations or other evidence of an excavated context
- e. Works with documented information detailing a find spot that was not part of an officially recognized excavation
- f. Works that come from an architectural or immovable context or are part of a larger work that may have been broken up in smaller pieces
- g. Works that transited through jurisdictions during period when the art market may have been largely unregulated, e.g. Bangkok, Singapore

Antiquities that are subject to considerations above may require communications with scholars, experts or U.S or foreign government officials, an ethical and legal analysis and consideration of cumulative facts and circumstances, such as prior loan, exhibition, publication, public display, or prior known or current communications with a country of origin, in making determinations and recommendations for action.

The Museum will post on its on-line collections, antiquities subject to considerations above as research, time, and circumstances allow.

4. Colonial-Era considerations: Works of art that may be associated with a legacy of colonialism or conflict that may have been acquired under conditions that were forced and considered unethical today. DAM is committed to researching these works and consulting appropriate communities to determine facts about an object's history, purpose, and method of initial transfer from the local context. The museum staff will follow *AAMD Guidance on Art from Colonized Areas* and research and consult appropriate communities and governing institutions to determine facts to assist with an ethical assessment that takes into account:
  - a. an object's history, type and function or purpose
  - b. method of initial transfer from the local context

- c. analysis of legal laws in country of origin and U.S. at time of collection or acquisition as relevant

The Museum will post on its on-line collections, objects subject to Colonial-era considerations as research, time, and circumstances allow.

C. Provenance Research – Outside Collaboration and Consultation

1. The Denver Art Museum is committed to collaborating and consulting with national and international scholars, living or descendant cultural groups, and US and foreign government officials for all relevant collections. Consultations as part of provenance research may involve objects subject to legal, ethical, or other considerations listed above, or for information that helps add to an object's historical context, interpretation, or ownership history.
2. Consultations with community members, groups, scholars and experts should be coordinated by Curatorial Department Heads or their designates who are encouraged to connect with the Provenance Committee in case of coordination on other related communications. Communications with official U.S. indigenous tribal government entities will be determined in coordination between the Director and the Andrew W. Mellon Curator of Native Arts.
3. Communications with potential Nazi-Era heirs, and U.S. or foreign government officials will be conducted only by the Director or designate who will work with advisement of the Provenance Committee and legal counsel.

D. Provenance Research Claims

1. The Museum recognizes that legal and ethical circumstances surrounding collections provenance are specific to individual works and are complex. The Museum affirms it has the right to make informed decisions regarding the appropriateness of acquiring and repatriating or restituting certain collections.
2. The Museum reaffirms that it will make its best efforts to find and reach out to rightful owners for all works found to have been unlawfully appropriated or that are subject to repatriation under US law or as determined by Museum policy.
3. The Museum commits to expeditious consideration to all claims presented.

4. Recommendation for repatriation or restitution of a work from the permanent collection will follow the museum's deaccession policy and guidelines as outlined in the Museum's CMP.

E. Collection Provenance Transparency

1. As a public institution that collects and cares for collections in the public trust, the Museum is committed to transparency of and public access to provenance information as research is completed including through the posting of provenance information on its on-line collections and on any AAM or AAMD object registry, as appropriate.
2. Public posting of provenance information on the Museum's on-line collections remains an ongoing priority. Priorities of posting will include important, key collections and incoming acquisitions, works on display, and works subject to provenance considerations listed above as time and resources permit.
3. The Museum is also committed to publicly posting information for restitutions or repatriations of works from the collections.
4. Museum staff will participate and contribute to increasing public awareness for the importance and contributions of collections provenance for museums, and communities and countries of origin through education, online and onsite programing, and interpretation that draws from provenance research in the museum galleries and exhibitions when feasible.