

**STATEMENT OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS**

FEBRUARY 2, 2022

Chairman Schatz, Ranking Member Murkowski, and members of the Committee, my name is Joy Beasley and I serve as the Associate Director for Cultural Resources, Partnerships and Science in the National Park Service at the United States Department of the Interior (Department). Thank you for the opportunity to appear before you today to present the Department's views on the implementation of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). For over 30 years, NAGPRA has required the respectful return of Native American ancestors and cultural items to lineal descendants, Indian Tribes, and Native Hawaiian organizations. Under NAGPRA, ancestral remains and cultural items are subject to repatriation by a museum or Federal agency or protection on Federal or Tribal land. NAGPRA recognized that human remains of any ancestry must at all times be treated with dignity and respect. NAGPRA provides for the resolution of rights to long-separated ancestors and objects to Indian Tribes and Native Hawaiian organizations.

Implementation of NAGPRA is assigned to the Secretary of the Interior. Since 1990, the National NAGPRA Program has been based in the National Park Service. The Secretary of the Interior has delegated the following eight responsibilities to the Director of the National Park Service, who in turn delegated them to the Associate Director for Cultural Resources Partnerships and Science:

- Publish notices in the Federal Register for museums and Federal agencies to provide due process to Indian Tribes and Native Hawaiian organizations. We have published almost 4,000 notices, allowing for the repatriation of over 84,000 Native American ancestral remains and over 1.5 million funerary objects.
- Maintain and share data on NAGPRA compliance. We maintain publicly available databases to ensure transparency of information related to repatriation and disposition. Data is provided in more user-friendly reports and data visualizations to assist Indian Tribes and Native Hawaiian organizations in making requests.
- Make Federal grant awards to museums, Indian Tribes, and Native Hawaiian organizations for consultation and repatriation under NAGPRA. The Department acknowledges and appreciates the recent work of the Congress to increase grant funds to museums, Indian Tribes, and Native Hawaiian organizations. Since 1994, nearly \$54

million in grant funds have been awarded. However, we continue to receive more applications that meet the funding criteria than we can support in in a given fiscal year.

- Investigate civil penalty allegations and assess fines on museums that fail to comply with NAGPRA provisions. In total, we have investigated 53 entities and found 20 museums have failed to comply with NAGPRA. We have collected nearly \$60,000 in penalties. The National Park Service recently hired a full-time investigator for the Program dedicated to conducting these investigations.
- Provide staff support to the Native American Graves Protection and Repatriation Review Committee, a Federal Advisory Committee. The Committee provides an annual report to Congress outlining progress made and any barriers that may have been encountered in implementing NAGPRA. The most recent report, covering 2020-2021, was finalized by the Advisory Committee at the end of November of 2021. The Department is preparing the report for transmittal to Congress in early 2022.
- Provide technical assistance for discoveries and excavations on Federal and Tribal lands. To date, Federal agencies have reported 214 notices of dispositions from Federal lands.
- Draft and promulgate implementing regulations. The Department recently completed consultation with Indian Tribes and Native Hawaiian organizations on possible revisions to the NAGPRA regulations.
- Provide technical assistance to any party involved in repatriation or disposition. Training is provided to upwards of 2,000 participants annually, although we are reaching even larger audiences with remote video conferencing. The National NAGPRA Program responds to thousands of individual inquiries by phone or email annually.

While there have been many successes in implementing NAGPRA as mentioned in the bullets above, the Department is aware that more work under NAGPRA needs to be done. Since the passage of NAGPRA in 1990, less than half of the Native American ancestral remains in collections have been repatriated to their traditional caretakers. Over 117,576 Native American individuals are still in museum and Federal agency collections and 94% of those have not been culturally affiliated with any present-day Indian Tribe or Native Hawaiian organization. Even in Alaska and Hawai'i, where connections between ancestral remains and present-day people are well established, over 400 ancestors taken from Alaska and over 100 iwi kupuna taken from Hawai'i are still in museum collections. The Department is also aware that some collections subject to NAGPRA remain unreported. Many Federal agencies are still trying to locate extensive collections in non-Federal repositories in order to complete the NAGPRA compliance process. Likewise, museums are continuing to discover collections subject to NAGPRA that were unknown or unreported that should be returned to their traditional caretakers.

In addition, the Department is aware that changes to the NAGPRA regulations are long overdue.

Regulations

Since 2010, the Department has received repeated requests for substantive updates to the NAGPRA regulations. Based on community input and previous consultations, the Department prepared a draft proposed rule and, in July 2021, invited consultation with Indian Tribes and Native Hawaiian organizations to discuss the proposal. The Department held 4 consultation sessions and received 71 written comments from Indian Tribes and Native Hawaiian organizations.

The goal of any revised regulations, as discussed during the consultation sessions, is to simplify and improve the regulatory process for repatriation; advance the Administration's goals; and streamline existing regulatory requirements by simplifying excessively burdensome and complicated requirements, and clarifying timelines. For example, proposed revisions to the regulations could require museums and Federal agencies to update inventories of ancestral remains and move the regulatory process forward, without first requiring a request from Indian Tribes or Native Hawaiian organizations.

In addition, the proposed revisions to the regulations could require museums that have custody of a collection to report the collection to the appropriate Federal agency or to the manager of the National NAGPRA Program. This will allow for greater awareness and transparency of collections that are subject to NAGPRA and its repatriation provisions.

The Department is currently working on incorporating the input it received during consultation with Indian Tribes and Native Hawaiian organizations and expects to publish a proposed rule for public comment in early 2022. The Department is committed to emphasizing in the revised regulations deference to the customs, traditions, and Native American traditional knowledge whenever possible in the repatriation process.

Chairman Schatz, Ranking Member Murkowski, and members of the Committee, thank you for the opportunity to present the Department's views on NAGPRA implementation. I would be pleased to answer any questions that you may have.