

NAGPRA Basics

What was behind push for NAGPRA?

- Desecration of Native American burials
 - “unmarked” graves not usually protected by law
 - use of human remains, grave goods as curiosities
- Large numbers of remains and grave goods in museums
 - obtained without consent
 - most not used for “science”; sitting on dusty shelves
 - culturally inappropriate storage and display
 - culturally important objects unavailable for use
 - sacred objects, objects of cultural patrimony
- “Science” that is done with remains and objects irrelevant or offensive, not politically/social neutral
- Native Americans increasingly vocal, legally savvy, politically powerful since 1960s, alliances with conservative religion

The Law:

- passed by US Congress, signed by Bush #1 in 1990
- Regulations still being developed
- Administered by National Park Service, [National NAGPRA Program](#)
- Conflicts resolved by the National NAGPRA Review Committee

Applies to:

- Native American human remains from the USA (not territories)
- Associated grave goods (objects placed with body at burial, and still kept with human remains in collections)
- Unassociated grave goods (objects that were placed with body, but HR no longer with objects)
- Sacred objects (needed for practice of religion)
- Objects of cultural patrimony (essential for cultural identity of group)
- Only to remains found on Federal or Tribal land (graves protection)
- Only to collections in federal agencies or museums with federal funding
- Does not include Smithsonian (covered by 1989 NMAI act)
- It is illegal to traffic in human remains or objects if you don't have the right of possession under NAGPRA

Two primary situations:

1. protection of graves and objects

- applies only to burials on Federal land or within boundaries of Tribal land (reservations)
- if graves are encountered, work stops, consultation with lineal descendants or affiliated tribe(s), public notices, repatriation

2. repatriation of human remains and objects

- applies only to federal agencies or repositories that receive federal funds
- does not apply to Smithsonian
- affected repositories must inventory remains and objects potentially subject to NAGPRA
- they must publish inventories by 1995 of all HR and objects ***culturally affiliated*** with federally-recognized tribes or lineal descendants
- those groups may then claim HR or objects, if accepted then public notices, repatriation

Checklist for NAGPRA applicability, grave protection:

- Were the remains found on federal or tribal land after 1990? (if earlier, then follow repatriation checklist below)
- Are the remains Native American? (Bonnichsen et al. may complicate this...)
- Are lineal descendants known? If not, which tribe(s) is/are potentially culturally affiliated?

Checklist for NAGPRA applicability, repatriation:

- Does agency/museum/repository receive federal funds? (except Smithsonian)
- Are remains and/or objects Native American? (Bonnichsen et al. may complicate this)
- Do remains or objects fall under categories defined by NAGPRA (human remains, associated or unassociated grave goods, sacred objects, objects of cultural patrimony)?
- Are lineal descendants known? If not, which tribe(s) is/are potentially culturally affiliated?

Unresolved NAGPRA Issues

- Affiliation
 - Evidence (weight, records problems)
 - only to Federally Recognized Tribes
 - territory issues (shared use, migrations, etc.)
 - “culturally unidentifiable” remains
- Consultation
- Funding
- Overly complex regs, slows progress
- Federal recognition

- Limited range of objects covered
- Only collections with federal \$\$ or agencies