

SECTION II

Chapter 2. SMITHSONIAN INSTITUTION REPATRIATION PROCEDURES

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OF THE SMITHSONIAN'S more than one dozen museums and numerous research facilities and program offices, only two museums are engaged in ongoing repatriation related activities: the National Museum of Natural History (NMNH) and the National Museum of the American Indian (NMAI). The NMNH and the NMAI are responsible for the care and management of two major collections of materials related to the cultures of Native Peoples from throughout the Western Hemisphere and Hawaii. Consequently, they share a responsibility for the Smithsonian Institution's accountability on the issue of repatriation. This section of the repatriation handbook will describe their respective policies, the legislative history on which each policy is based, and the repatriation process for each museum.

THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Congress established the National Museum of the American Indian in November 1989 with the National Museum of the American Indian Act (Public Law 101-185). This act transferred ownership of the more than one million objects comprising the George Gustav Heye collection of the Museum of the American Indian, New York City, to the Smithsonian. Part of the Heye collection is now on display at the Alexander Hamilton U.S. Custom House in Manhattan, but most of the objects remain stored at the NMAI Resources Center, Bronx, N.Y. It is anticipated that when its new facility is complete, the NMAI Resources Center will move to Suitland, Maryland. The NMAI museum will open on the Capitol Mall in Washington, D.C. From that time on, objects will be on view there and at the Alexander Hamilton Custom House in New York City.

In addition to establishing the NMAI, P. L. 101-185 mandated the Smithsonian's formulation of repatriation policy and programs. The Act provided for the inventory and return of Native American human remains and associated funerary objects on an Institution-wide basis. However, because NMAI's Board of Trustees has sole authority under the law over its collections, NMAI developed its own repatriation policy, distinct from the Smithsonian. In 1990 the NMAI Board of Trustees adopted a Repatriation Policy, and in 1991 it established a Collections Management Policy, both in accordance with the requirements outlined in P. L. 101-185.

The NMAI established a Repatriation Office in 1993. Its Coordinator reports to the Assistant Director for Cultural Resources, as the principle point of contact within the museum for Native Americans seeking the repatriation of materials. The Repatriation Office tracks each repatriation case from the initial inquiry to the final resolution of the case.

THE NATIONAL MUSEUM OF NATURAL HISTORY

The NMNH Repatriation Office was established in 1991 to carry out the requirements of the NMAI Act (P. L. 101-185) and the amendment to the act passed in 1996. Repatriation at NMNH is intended to be a collaboration whereby museum staff and Native Peoples together determine the disposition of human remains and cultural objects.

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Southern Cheyenne leaders Moses Starr, Jr., Nathan Hart and Lucien Twins preparing human remains for the journey back to Oklahoma. Photo by Laurie Minor-Penland, courtesy of the *Smithsonian Runner*.

The repatriation policy of the NMNH covers the following categories of items:

1. Native American human remains of known individuals.
2. Human remains of individuals who are culturally affiliated with contemporary Native American or Hawaiian Peoples.
3. Associated and unassociated funerary objects.
4. Sacred objects.
5. Objects of cultural patrimony; and
6. Objects transferred to or acquired by the NMNH illegally or under circumstances that render the Museum's claim to them invalid.

The repatriation policy of the NMNH is intended to facilitate communication and cooperation between Native community leaders

and the Museum in coming to agreements about the disposition of culturally-affiliated human remains and specific classes of

objects. Reaching agreement requires understanding and patience on both sides, as the laws, in many respects, are quite vague.

One of the primary tasks of the Repatriation Office at the NMNH is to assess the cultural origins of and to inventory collections potentially affiliated with contemporary Native American and Native Hawaiian Peoples in the United States. Another of its principle functions is to respond to requests for information about the Museum's collections or requests for the return of specific remains or culturally-affiliated objects in those collections. Parties making requests for returns are asked to identify themselves and the basis of their claim, to indicate the geographical extent of their claim, and the specific nature of the items they wish returned.

As a part of both the inventory and repatriation request processes, the Repatriation Office prepares a document to be reviewed by anthropologists and others within the NMNH and then submitted to the Secretary of the Smithsonian for final approval. The report provides an assessment of the cultural affiliation of the collections involved, summarizes all relevant details concerning particular cases, and recommends a course of action for the Secretary to follow in light of the legislative mandate. After the institutional review is completed, the report is sent to members and representatives of all culturally-affiliated groups. Following the Native group's review of the report and depending upon the particular circumstances of the case, arrangements may then be made for returns, or meetings may be scheduled for further negotiations. In practice, contacts

and consultations with Native Peoples are initiated well before the inventory reports are completed. Collaboration on repatriation documentation is an objective of the Repatriation Office and is actively supported through internships and short-term visits by Native community scholars.

The NMNH Repatriation Office completed object summaries of ethnographic collections for review by Native groups in 1997. These summaries enable groups to begin the identification of culturally-affiliated sensitive objects in the collections. The NMNH follows the general recommendations developed by the Department of the Interior's Archeological Assistance Division for the production of NAGPRA summaries.

The identification of sacred objects and objects of cultural patrimony subject to repatriation is envisioned as a three-part process:

1. The Repatriation Office generates a preliminary list of objects held by the NMNH related to a particular group. No attempt is made to identify what is sacred or patrimonial at this stage; the Repatriation Office simply establishes that the items are affiliated with a particular group, that the description given in the records matches the object and that the item is still in the possession of the NMNH.

2. Native groups are asked to review these lists and use them either to identify sacred or patrimonial objects of concern or initiate consultations with the Repatriation Office for the purpose of identifying such objects. Native leaders or their representatives may visit the NMNH to view the objects and associated photographs and documents, or museum representatives may travel to the group with photographs and documents.

3. Arrangements are made for returns, recommendations for continued care of collections at the NMNH are obtained, or alternatives with regard to the disposition of specific items or collections are developed.

The intention of the NMNH repatriation program is to generate a greater level of understanding and respect for the traditions and cultural heritage of Native Peoples at the national level through the incorporation of contemporary Native perspectives into the interpretation and presentation of Native Peoples' past and present cultures at the NMNH. Cooperative endeavors to address Native rights and privileges established during the repatriation process promise to strengthen the Native voice at the NMNH, an institution historically committed to understanding and interpreting Native cultures of the Americas and the world.

NMAI AND NMNH REPATRIATION PROCESSES

Native Americans may take the steps outlined in the following sections to initiate repatriation cases at the NMAI and the NMNH. For both museums:

1. Repatriation Offices serve as a point of contact with the Native groups or individuals and both serve as coordinators of the repatriation process.

2. A case usually begins with a Native request for the repatriation of specified materials; the Museums may however begin compiling documentation of materials prior to receiving a request.

3. The phase in which documentation is gathered and a case report developed is the longest part of the process. Museum records are frequently incomplete, scattered, inconsistent, and incorrect. As a result, assembling the relevant information may require a considerable

amount of time and effort. Native Peoples and groups are encouraged to participate in the process, especially in research related to the materials and as advisors to the Museums on appropriate, culturally-prescribed care and handling of materials.

A case report is based on collection-related documentation. Because the research phase is critical to the resolution of a case, Native Peoples are urged to contribute whatever results of their own research they wish to. Claimants might focus their efforts on surveys of relevant archival materials, collectors' field notes, and Museum records, working either independently or with the Repatriation Office. The staff of each Museum will instruct Native researchers in the use of Museum sources. In many instances a case may prompt a community to collect oral histories, review written tribal histories, and explore cultural traditions and protocols. Native research will usually dovetail with the work of the Museum staff and can help to speed the repatriation process considerably.

THE NATIONAL MUSEUM OF THE AMERICAN INDIAN REPATRIATION PROCESS

1. The NMAI views repatriation as a process based on ongoing dialogue. Native Americans may establish contact with the NMAI Office of Repatriation, the central point of contact in repatriation cases, by letter, phone call or personal meeting with the staff. The Repatriation Office will work with all other NMAI programs and departments whose collections, work, or expertise relate to such cases.

An inquiry may be a general question about the Museum's holdings for the tribe, group, or individual, or it may focus on specific items that the claimant believes to be in the Museum's collection. Examples of such collection materials include: human remains; funerary objects; sacred and ceremonial objects; objects that the tribe considers important to the revitalization or perpetuation of its ceremonial practices; cultural property; patrimony; stolen items; and duplicate items or objects of a similar nature that the Museum holds in abundance.

2. The first written response from the Museum will acknowledge the inquiry and provide existing and available written information concerning the holdings in question.

3. The Native representative(s) may then indicate an interest in pursuing the repatriation of a specific object(s).

4. The Repatriation Office will cover expenses related to travel and lodging for one night for one Native representative to visit the collection. The purpose of the trip would be to view the materials in question and to continue conversations with the staff of the Repatriation Office concerning the case. Prior to the visit, the Native representatives might explore opportunities for conducting further research within the collection records, the NMAI archives, and other possible sources of documentation for the materials under consideration for repatriation.

5. At the same time the Repatriation Office will begin to gather information related to the case, including the results of a records search for documentation concerning the objects in question. The Repatriation Office invites, but does not require, Native Peoples to submit to it as part of the case report the results of their independent research efforts, including testimony of elders, medicine people and others with authoritative cultural knowledge. Community decisions concerning sensitive information will be respected and accommodated.

6. The Repatriation Office will coordinate the development of the report which will include the findings of internal records searches and the results of community research efforts. The Repatriation Office will forward the report to the NMAI curatorial committee which is composed entirely of NMAI staff.

7. The curatorial committee will review the report based on the findings of the Repatriation Office and will offer an evaluation of the case. The committee will forward the report and its recommendations to the NMAI Director.

8. The Director and the Smithsonian's Office of the General Counsel will review the record, the report, and the recommendations. The Director will then formulate a final report which he will forward with his recommendations to the NMAI Board of Trustees, Collections Committee.

9. The Collections Committee, made up of both Trustees and non-Trustee members, will evaluate the request and make a recommendation to the Trustees.

10. The Trustees will render a decision to repatriate or not, and the Museum will notify the Native claimant.

11. If repatriation is decided upon, the Repatriation Office will pay for a Native representative to travel to the collection site to escort the remains or materials back to the community. If the tribe is unable to send an escort the Office will pay for a museum staff member to accompany the remains or materials. When the tribe has received notification that its repatriation request has been granted, it is encouraged to communicate with the Repatriation Office staff concerning its recommendations for appropriate handling of the remains or materials in preparation for travel. Tribes, for example, should inform the museum staff if space is needed for ceremonial purposes prior to travel, if the community wishes to provide special materials



Blackfeet delegate and staff member examining material from the museum's collection, September 14, 1994. Photo by Katherine Fogden, courtesy of NMAI, Smithsonian Institution.

in which the remains or materials will be transferred, or if any other special arrangements are required of the museum in the transfer of the remains or materials to the community.

12. If the repatriation request is denied, the NMAI will consider an appeal from the tribe or group.

THE NATIONAL MUSEUM OF NATURAL HISTORY REPATRIATION PROCESS

1. Communication and collaboration is the foundation of the repatriation process at the NMNH. The process is initiated when a tribe establishes contact with the NMNH Repatriation Office by letter, phone call, or personal visit to express an interest in the Museum's holdings. The initial inquiry may be a general request for information about the Museum's holdings pertaining to a particular tribe, Native group, or individual or it may focus on specific items subject to repatriation under the law.

2. The Native group's request for information will be directed to the Repatriation Office's senior staff person who handles requests from its region. This individual becomes the group's "case officer" and serves as its main point of contact within the Museum.

3. The case officer will give the Native group a preliminary computer inventory of the museum's holdings from the region specified in the Native request or identified in the Museum's records as that group's traditional territory. At the NMNH, collections pertaining to Native cultures are under the care of three separate divisions of the Department of Anthropology: the divisions of Ethnology, Archaeology, and Physical Anthropology. While the majority of items in Ethnology have an ascribed cultural affiliation, those in Archaeology and Physical Anthropology usually do not. To make reports as comprehensive as possible records for collections in the latter two divisions are investigated according to the geographic criteria specified by the Native group.

4. Natives groups and individuals may respond to the inventory information by making a formal request for the return of specific human remains or cultural items. Those eligible include family descendants of named individuals, federally recognized Native American tribes, federally recognized Native Alaskan villages, Native Hawaiian organizations, or state recognized Native American tribes.

5. After the Museum receives a formal request for repatriation, the Repatriation Office initiates the more detailed documentation work necessary to establish the cultural affiliation or origins of the items in question. This involves assembling information from biological, geographical, historical (both written and oral), genealogical, archaeological, linguistic, folkloric, ethnological, archival, and other relevant sources.

6. The Repatriation Office invites the Native group or persons to collaborate in the documentation effort and to contribute the results of their own independent or community-based research. Repatriation Office staff can provide Native American representatives with access to collections and museum records, and with basic instruction in the use of museum resources.

7. After all available information has been assembled, a comprehensive report is prepared by the case officer for submission to the Secretary of the Smithsonian Institution. The report reviews the facts of the case and makes recommendations regarding the repatriation status of items in question. The completed report is reviewed within the NMNH before final submission to the Secretary for action.

8. Once the case report has been approved by the Secretary, it is forwarded to the requesting Native group or persons and to any other parties with a declared or potential interest in the case. The case report represents the NMNH's official response to the Native group's request.

9. If a decision to repatriate is made, the Native group or persons then work with the Repatriation Office to arrange the details of the transfer. A waiting period of one month must precede the agreed upon repatriation date to allow all parties sufficient time to review the plans for return. The NMNH makes every effort to accommodate any special requirements of the Native group with respect to preparations and packing for return. The NMNH may cover the travel costs of up to two Native representatives who wish to come to the Museum to assist in preparations for return.

10. As mandated by the NMAI law (PL 101-185) and amended in 1996, the Smithsonian has established a Repatriation Review Committee (RRC) to monitor and review the inventory and identification process at the NMNH. At the request of any affected party, the RRC may review the findings of a particular case or decision made by the Museum. The RRC may also be called upon by the Secretary to assist in the resolution of any disputes that may arise. Any Native group or persons wishing to appeal a decision made by the NMNH may contact the RRC Chairman.

11. Native groups and persons may determine that it is in their best interest to delay a request for the repatriation of remains or objects. A decision to refrain from making a repatriation request at the present time in no way precludes the possibility of submitting a repatriation request at a future date.

For further information, copies of policies, or to initiate an inquiry, Native Americans may write, call, or visit the following offices of the NMAI and the NMNH.

Jim Pepper Henry
Repatriation Manager
Cultural Resources Center
National Museum of the American Indian
Smithsonian Institution
4220 Silver Hill Road
Suitland, MD 20746
(301) 238-6624 ext: 6277

Bill Billeck, Program Manager
Repatriation Office
National Museum of Natural History
Smithsonian Institution
Washington DC 20560
(202) 357-1899

To receive a free copy of the American Indian Sacred Objects, Skeletal Remains, Repatriation and Reburial Resource Guide 1994, mail or fax your name and address to one of these programs:

American Indian Program
Rm5119, MRC 638
National Museum of American History
Smithsonian Institution
Washington, D.C. 20560
Fax: (202) 633-8192

American Indian Museum
Studies Program
Center for Museum Studies
Arts and Industries 2235, MRC 427
Smithsonian Institution
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Fax: (202)-357-3346