

Oklahoma City University Law Library
Library User Guide - NAGPRA
Native American Graves Protection and Repatriation Act
Last Updated 5/1/08

Introduction and purpose

Native Americans have endured the looting and removal of burial grounds, graves, human remains, and cultural artifacts for science, curiosity, or profit. Passed in 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) is the federal law that allows museums and federal agencies to repatriate Native American cultural items.

NAGPRA also protects burial sites on federal and tribal lands by requiring consultation with tribes before undertaking excavation of Indian sites. NAGPRA includes provisions for culturally unidentifiable Native American cultural items, inadvertent discovery of Native American cultural items on federal and tribal lands, and penalty provisions.

All federal agencies and museums that receive federal funds (with the exception of the Smithsonian Institution which must comply with the NMAI Act of 1969) are subject to NAGPRA. In November 1993, federal agencies and museums in possession or control of Native American cultural items such as human remains, funerary objects, sacred objects, and objects of cultural patrimony were required to prepare written summaries for the culturally affiliated tribes. Later, federal agencies and museums were required to inventory the items and identify their geographical and cultural affiliation.

The purpose of this guide is to familiarize researchers with NAGPRA and outline the resources at the OCU Law Library. The guide will also briefly outline freely available resources. **This guide is not all-inclusive and is not a substitute for independent legal research about this topic.**

Federal and state laws

U.S. Code (USC):

Native American Graves Protection and Repatriation Act - 25 U.S.C. 3001 et seq. (Nov. 16, 1990).

Applicable Sections of the Code of Federal Regulations (CFR):

18 CFR 1312

23 CFR 773

32 CFR 651

36 CFR 296

43 CFR 7 & 10 –Main NAGPRA regulations.

Oklahoma Statute:

Oklahoma Title 21-Chapter 47

This guide is part of the OCU Law Library series of Research Guides and Pathfinders.

Additional copies and future updated versions are available at:

http://www.okcu.edu/law/lawlib/library_researchguides.html

Dictionaries and Encyclopedias

Primarily used for background information, encyclopedias give researchers a starting point.

West's Encyclopedia of American Law is available at KF 154.W47 2004 (1st floor).

Native Americans and the Law: A Dictionary is available at KF8203.6.S66 2000 (3rd floor).

The Encyclopedia of Native American Legal Tradition is available at KF8204.E53 1998 (3rd floor).

Handbooks and Nutshells

Handbooks and nutshells give a broad overview of the law in a particular area.

American Indian Law in a Nutshell is available at KF8205.Z9 C36 2001. (on reserve at the Circulation desk; earlier editions are located in Native American Collection, 3rd floor).

Handbook of Federal Indian Law is available at KF 8205.C6 2005 (on reserve at the Circulation desk, and also in Native American Collection, 3rd floor).

Web Sites

The sites below are freely available resources that explain NAGPRA or repatriation of cultural artifacts.

U.S. Department of the Interior–

<http://www.nps.gov/nagpra/MANDATES/INDEX.HTM>

The U.S. Department of the Interior web site for NAGPRA is a useful and extensive resource. The agency provides links to the law, summaries, and legislative history.

U.S. Department of the Interior– <http://www.usbr.gov/nagpra/>

This section of the U.S. Department of the Interior web site focuses on how NAGPRA affects the Bureau of Reclamation.

U.S. Fish & Wildlife Service–

<http://www.fws.gov/historicpreservation/crp/NAGPRA.html>

The U.S. Fish & Wildlife Service offers information on how it complies with NAGPRA.

National Association of Tribal Historic Preservation Officers–

<http://www.nathpo.org/mainpage.html>

This professional association represents tribal historic preservation officers who work for preservation programs at federally-recognized Native American tribes.

Association on American Indian Affairs– http://www.indian-affairs.org/programs/aaia_repatriation_nagpra.htm

The AAIA acts as a clearinghouse of information about NAGPRA and its required procedures.

Indianz.com – <http://indianz.com>

This site features current events and news of interest to Native Americans, including many articles and links related to NAGPRA.

American Indian Ritual Object Repatriation Foundation –
www.repatriationfoundation.org

The Foundation is a nonprofit organization that facilitates repatriation of sacred ceremonial material “to the appropriate American Indian Nation, clan, or family, and to educating the public about the importance of repatriation.”

Smithsonian Museum of Natural History – www.nmnh.si.edu/anthro/repatriation

The Smithsonian’s Repatriation Office falls under the NMAI Act of 1989 (Public Law 101-185). The office clarifies the repatriation process and provides links to collections and reports.

Arrowheads - www.arrowheads.com/burials.htm

This is a compilation of state repatriation, reburial, and grave protection laws. This page was last updated in July, 1997 so researchers will need to update the information they get here.

Guides

These resources are designed to give attorneys a focused and practical view on an area of the law.

Cultural Property Law: A Practitioner’s Guide is available at KF 4310.C85 2004 (Native American Collection, 3rd floor).

The Rights of Indians and Tribes: The Authoritative ACLU Guide to Indian and Tribal Rights is available at KF 8210.C5 P48 2002. (on reserve at the Circ. Desk; earlier editions in Native American Collection, 3rd floor).

Books

The books below deal with some aspect of NAGPRA or the issue of cultural artifacts.

Legal Perspectives on Cultural Resources is available at KF 8210.A57 L44 2004 (Native American Collection, 3rd floor).

Grave Injustice: The American Indian Repatriation Movement and NAGPRA is available at KF 8210.A57 F56 2002 (Native American Collection, 3rd floor).

Repatriation Reader: Who Owns American Indian Remains? is available at E98.M34 R46 2000 (Native American Collection, 3rd floor).

No Bone Unturned: The Adventures of a Top Smithsonian Forensic Scientist and the Legal Battle for America’s Oldest Skeleton is available at KF 8210.A57 B46 2003 (Native American Collection, 3rd floor).

Cross-cultural collaboration : Native peoples and archaeology in the northeastern United States is available at E78.E2 C76 2006 (Native American Collection, 3rd floor).

Imperialism, art and restitution is available at K3788.I47 2006 (3rd floor).

For indigenous eyes only : a decolonization handbook is available at E98.E85 F67 2005 (Native American Collection, 3rd floor).

Law Reviews and Journals

Law review and journal articles are an excellent starting point for legal research because the authors have done extensive research. You can search one of the subscription databases for specific articles. For a list of subscription databases please visit http://www.okcu.edu/law/lawlib/library_databases.php.

Indigenous law bulletin is available from v.5 (2002) to present in the Native American Collection.

The indigenous law journal at the University of Toronto Faculty of Law is available from v.1 (2002) to present in the Native American Collection and electronically via the subscription database Hein Online.

Indigenous peoples' journal of law, culture, & resistance is available from v.1 (2004) to present in the Native American Collection.

Native Americas : Akwe:kon's journal of indigenous issues is available from v.14 (1997) until v.21 (2004) in the Native American Collection.