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FOREWORD

Federal Implementation of the Native American Graves Protection and Repatriation Act

A Report by the Makah Indian Tribe and the National Association of Tribal Historic Preservation Officers

For decades, spanning the breadth of two centuries, the human remains of thousands of Native Americans were lodged in federal repositories, museums, and scientific institutions. Many, many more were unearthed to make way for development and urbanization. It required an act of the Congress to ensure that their loved ones are accorded the proper respect in death that they enjoyed in life.

The Native American Graves Protection and Repatriation Act, enacted in 1990, is one of the most important statutes enacted to restore honor to Native Americans, Alaska Natives and Native Hawaiians. It provides authority for Native families to reclaim the remains of their ancestors, their grandparents and parents, their brothers and sisters. This is the first report in the ensuing 18 years to assess the Act's effectiveness. While there is no question that the Act represents a huge step forward in setting the proper stage for repatriation, there remain areas to be clarified, such as a clear priority accorded to the wishes of lineal descendents, as well as the possible expansion of authorities to better ensure that Native Americans are accorded the same respect and dignity that other Americans have rightly come to take for granted once their loved ones are laid to rest.

This is a first step, an important first step to restore honor and dignity to Native Americans, Alaska Natives and Native Hawaiians.

Senator Daniel K. Inouye

U.S. Senate

Washington, DC

I. EXECUTIVE SUMMARY

This study was undertaken to prepare a substantive foundation for assessing the implementation of the Native American Graves Protection and Repatriation Act (NAGPRA) and identifying where improvements might be made. In addition to presenting findings and recommendations, this report provides legal and regulatory information.

As a result of successful repatriation efforts, many Indian communities have brought their relatives and ancestors home. Solemn ceremonies honor the return of these individuals: an honor that each family and community in the United States conducts for their dead in their own way. Also, resumption of ceremonial life can begin anew with the return of sacred, ceremonial objects. Each repatriation enables Native communities to employ the objects and items that have been handed down for countless generations in teaching their younger generations not only the important role that these sacred items have in their Native culture but also the pride, responsibility, and honor that are associated with the profound duty of caring for and conserving these precious resources.

In order to better understand some of the principal reasons for the Native American repatriation movement, the Background section of this report includes historic information that describes one systemic effort that led to Native American ancestors and objects becoming separated from their local communities. Legal and regulatory summaries of the Act are included in the Background Section and Appendix, as well as in the Research Findings.

The Research Findings section is the work of five researchers who conducted original research for this report, analyzed existing public information, and conducted two national surveys to determine how the Act is being implemented around the country and how Federal agencies and Native Americans are working together to achieve the goals that the U.S. Congress established for the Act. Findings are organized by sections of the Act, as well as in general categories that best explain the current state of Federal agency implementation of the Act.

The internal processes and effectiveness of the National Park Service National NAGPRA Program and Park NAGPRA Program were not examined or evaluated, as these tasks are beyond the scope of this project. National Park Service staff were very helpful in providing access to information and checking facts and timelines for the myriad compliance deadlines and processing of information that constitutes the repatriation process.

Findings and Recommendations included in this report reflect the current state of Federal agency compliance with the Act, as of May 2008. For example, research findings indicate that most, if not all, Federal agencies do not have a designated contact person for purposes of the implementation of NAGPRA or if there is a designated contact, the person is typically responsible for other cultural resource compliance issues. There are no apparent enforcement mechanisms or incentives for Federal agencies to comply with NAGPRA, and, there is a clear need and many requests for training and policy development on all aspects of the Act. Recommendations, both general and specific, have been developed and include: improving information sharing; creating and improving databases – both in terms of content and search functions; and urging the U.S. Congress to request that the Government Accountability Office conduct an audit of Federal agency compliance with the statutory and regulatory requirements of NAGPRA for all relevant Federal agencies.

By nature of the goal - assessing implementation and suggesting improvements – this report of Findings and Recommendations examines a process that has a national scope, but which is not, at this time, quantifiable. We have examined a national process of consultation and information sharing that has led to individual success stories at the local level. It is clear from our work that in its 17-year history, the Act has enabled some measure of success in the efforts of Native people to secure the repatriation of Native American human remains and cultural objects, but much work remains.



Keex' Kwan Dancers in Juneau, Alaska, 2008. Photo credit: D. Bambi Kraus.