

July 26, 2005

Senator John McCain, Chairman  
Senate Committee on Indian Affairs  
United States Senate  
836 Hart Office Building  
Washington, DC 20510  
FAX: (202) 224-5429

Dear Senator McCain:

I am writing to you regarding your proposed amendment to the Native American Graves Protection and Repatriation Act (NAGPRA). I am a member of the Department of Anthropology at the University of Wyoming, Laramie, Wyoming, and an active, practicing forensic scientist. Attached to this letter is a one page summary of my professional background and credentials. Further details will be provided upon request.

The amendment's proposed addition of only two small words (i.e., "or was") to NAGPRA's definition of the term Native American may seem like a minor change, but in practice it will have profound effects upon our future. If passed, it will directly and adversely affect such things as the quality of medical science and forensic science education in our country, and also our future capacity to solve important forensic cases such as homicides, missing persons cases and mass disasters (like the 9/11 Twin Towers and Pentagon terrorist attacks). Please let me explain.

First of all, I would like to begin by saying that I fully support the rights of Native Americans, or any other people, to claim the remains of deceased relatives for burial, or whatever other disposition they deem appropriate. Since 1990 NAGPRA has provided the long overdue opportunity for Native American peoples to have the same rights as anyone else with respect to the handling and disposition of their relatives' remains. As the only biological anthropologist at the University of Wyoming for a 30 year period (from 1971 until recent departmental expansion) I was, and still am, very involved with the implementation of this law. If properly implemented NAGPRA is a good law. However, not all claims made under NAGPRA are equally meritorious. One particularly troublesome area is remains that are so old they have no verifiable connection to any existing American Indian tribe or to present-day Native Americans as an aggregate population. One good example of such remains is the Kennewick Man skeleton. Such ancient remains should not be subject to disposition under NAGPRA. Instead they

should be properly curated and carefully maintained in a safe, appropriate facility. Doing so serves two very important purposes. First, the unidentified remains will be kept safe until those who have a true relationship can claim them, and secondly, in the interim they will provide an invaluable resource for both teaching and research.

In just the last few years the progress in DNA research has been so immense that we never would have believed it possible a decade or two in the past. Equally stunning advances have been made in other methods for investigating prehistory. Soon it may be possible to repatriate remains with much greater precision than is now the case. To try and speed the process now will only result in injustice to those persons who have the closest relationship to the remains in question but have no way at present to prove their connection.

Regarding my second point about the value of having extant skeletal remains available for teaching and research there are a number of factors that should be pointed out. First of all, students in certain medical sciences, forensic anthropology/skeletal biology and many areas of archaeology must have actual human remains available for study. Casts, plastic models and computer images are fine for introductory students, but for educating competent, advanced professionals in certain fields of science these substitutes are totally inadequate. Furthermore, study collections must contain a wide range of human skeletons representing both sexes, people of various major races/populations, all ages (developmental stages), and both normal and pathological skeletal conditions. No forensic anthropologist has ever been educated to an adequate level (eg. for board certification), and become fully capable of testifying in court on homicide cases, mass disaster cases, etc., without having been trained on excellent, well-maintained skeletal collections that possess great biological diversity within them.

Regarding research on human skeletons, skeletal collections are invaluable to our understanding of population change, disease, forensic body identification and many other things. In fact, skeletal collections are no less important to research than they are to the process of education. In my own laboratory, not a single day passes without the bones in our collection being put to quite important uses (eg. helping to teach, helping to solve crime cases, helping to develop new scientific methods).

The proposed current change in the NAGPRA law, if passed, would clearly accelerate the dismantling of existing important skeletal collections. One consequence would be the loss of ancient skeletal remains that are absolutely essential to understanding how this continent came to be inhabited by people. Without the ability to study the few truly old skeletons (i.e., those more than 8,000 years old) that are currently held in federal or museum collections, or that might be found in the future, the early prehistory of this continent can never be reconstructed. Only the remains themselves have the information needed to tell us who these ancient people were, where they might have come from, how they were related to one another, and whether they are related to any people living today.

NAGPRA should not be amended to allow tribal groups to claim individual skeletons to which they have weak or non-existent relationships and which might actually be more

closely related to other people elsewhere in this country (or from other parts of the continent). Such would be the result of this amendment. I therefore urge that it not be approved by the Committee. Thank you for your attention to these considerations.

Sincerely,

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Professor, Anthropology  
Former Chairman, Physical Anthropology Section,  
American Academy of Forensic Sciences