



# READING THE LAW

DEMYSTIFYING THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

25 U.S.C. 3001 et seq.

Section	Title
3001	Definitions.
3002	Ownership.
3003	Inventory for human remains and associated funerary objects.
3004	Summary for unassociated funerary objects, sacred objects, and objects of cultural patrimony.
3005	Repatriation.
3006	Review committee.
3007	Penalty.
3008	Grants.
3009	Savings provision.
3010	Special relationship between Federal Government and Indian Tribes and Native Hawaiian organizations.
3011	Regulations.
3012	Authorization of appropriations.
3013	Enforcement.

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1. What is required in an inventory of Native American human remains and associated funerary objects?
  2. What is required in a summary of Native American unassociated funerary objects, sacred objects, and objects or cultural patrimony?
  3. What is required to make a request for repatriation of any of the above?

# HUMAN REMAINS & ASSOCIATED FUNERARY OBJECTS

## 25 U.S.C. 3003 Inventory...

(e) Inventory

What is an inventory?

(a) In general

What is required?

(b) Requirements (1) The inventories and identifications required...

When is it required?

(c) Extension of time for inventory

(b) Requirements (2) Upon request...

Options for an inventory and what is NOT required

(d) Notification

## 25 U.S.C. 3005 Repatriation.

What is required after an inventory?

(a) Repatriation of Native American human remains...

(1) If ...the cultural affiliation of Native American human remains...

Options after an inventory

(4) Where cultural affiliation of Native American human remains has not been established...

## WHAT IS AN INVENTORY?

- A simple itemized list that summarizes...
- ...the information possessed by the museum or Federal agency...

25 U.S.C. 3003(e) and (a)

## WHAT IS REQUIRED FOR AN INVENTORY?

- Identify the geographical and cultural affiliation of the human remains and associated funerary objects
- In consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders

25 U.S.C. 3003(a) and (b)(1)(A)

## WHERE IS THERE DISCRETION IN AN INVENTORY?

Indian Tribes or NHOS MAY request

- Additional available documentation to supplement information on geographical and cultural affiliation
- A summary of existing museum or Federal agency records, including inventories or catalogues, relevant studies, or other pertinent data

25 U.S.C. 3003(b)(2)

## WHEN IS AN INVENTORY REQUIRED?

- No later than 5 years after November 16, 1990
- The Secretary may extend the deadline for any museum upon a finding of good faith effort to carry out the inventory and identification process

25 U.S.C. 3003(b)(1)(B) and (c)



## WHAT IS NOT REQUIRED FOR AN INVENTORY?

- Any information other than **FOR THE LIMITED PURPOSE** of determining geographic origin, cultural affiliation, and basic facts surround acquisition and accession
- Information **DOES NOT MEAN AND SHALL NOT BE CONSTRUED TO BE AN AUTHORIZATION FOR** the initiation of new scientific studies or other means of acquiring or preserving additional scientific information

25 U.S.C. 3003(b)(2)

## WHAT IS REQUIRED AFTER AN INVENTORY?

Six months after completion of the inventory, notify the Indian Tribes and NHOS and identify:

- Each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition
- Those clearly identifiable as to tribal origin
- Those NOT clearly identifiable, but reasonably determined to be culturally affiliated based on circumstances surrounding their acquisition

A copy of each notice is published in the Federal Register by the Secretary of the Interior

## WHAT IS REQUIRED AFTER AN INVENTORY?

Museums and Federal agencies must:

(d) Share information with lineal descendant, Indian Tribe, or NHO to assist them in making a request for repatriation

(a)(1) Expeditiously return human remains and associated funerary objects, upon request of a lineal descendant, Indian Tribe, or NHO, unless there is an exception\*

(a)(3) Consult with requesting lineal descendant, Indian Tribe, or NHO on place and manner of delivery

\* Exceptions to expeditious repatriation are:

(b) Delay of 90 days to complete a scientific study of major benefit to the United States

(e) Competing requests for repatriation and cannot determine the most appropriate requestor

## WHERE IS THERE DISCRETION AFTER AN INVENTORY?

Indian Tribes or NHOS MAY request repatriation

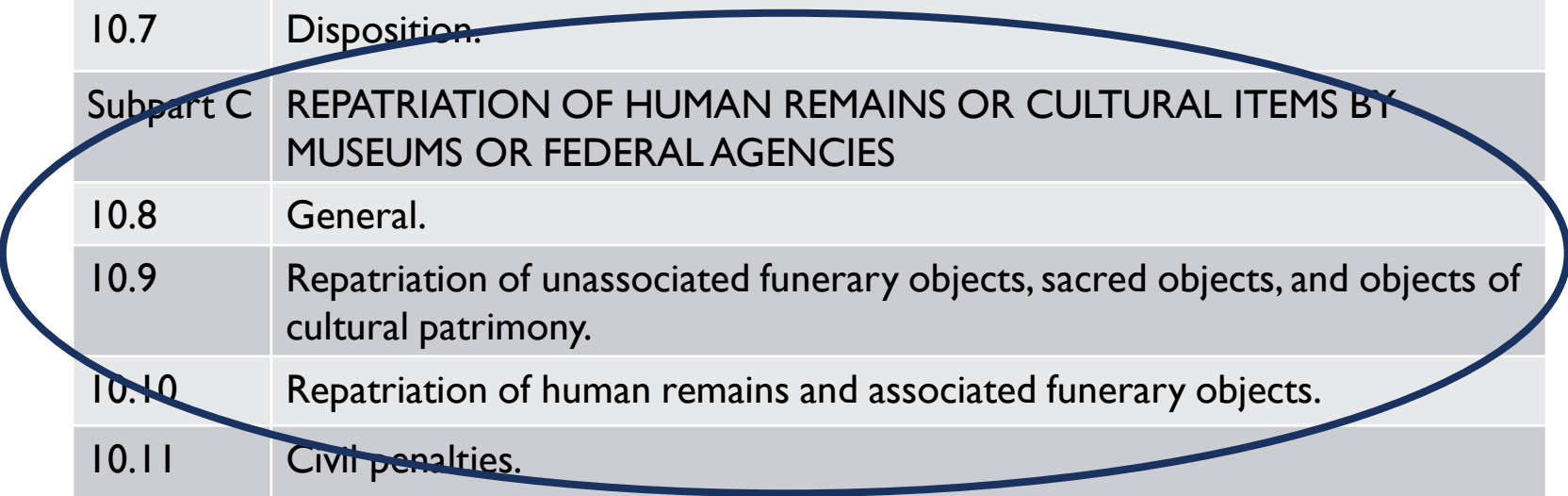
- Of culturally affiliated human remains and associated funerary objects
- Upon showing cultural affiliation by a preponderance of the evidence based on geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, other relevant information, or expert opinion

25 U.S.C. 3005(a)(1) and (4)

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10.4	General.
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10.7	Disposition.
Subpart C	REPATRIATION OF HUMAN REMAINS OR CULTURAL ITEMS BY MUSEUMS OR FEDERAL AGENCIES
10.8	General.
10.9	Repatriation of unassociated funerary objects, sacred objects, and objects of cultural patrimony.
10.10	Repatriation of human remains and associated funerary objects.
10.11	Civil penalties.
10.12	Review Committee.



# STEP 1: COMPILE AN ITEMIZED LIST.



Number of individuals  
Number of associated  
funerary objects  
Geographical location  
Acquisition history  
Other information  
Hazardous substances



Physical inspection  
Research of any kind  
Study or analysis  
Rehousing or reboxing  
Drawing,  
photographing, or  
measuring



Organization  
Level of detail  
Format

# NUMBER OF INDIVIDUALS

- Identified in a reasonable manner
- Based on information available
- No additional study or analysis is required
- If human remains are in a holding or collection, the number of individuals is at least one.



## STEP 2: INITIATE CONSULTATION.



Lineal descendant  
Indian Tribe or NHO  
with potential  
affiliation  
Itemized list  
Names of consulting  
parties  
Proposed timeline and  
method



Invite all 574 Indian  
Tribes and all NHOs  
Conduct research to  
determine who to  
invite  
Final or accurate  
inventory prepared



Distribution  
Response deadline  
Response method

## STEP 3: CONSULT.



Respond to any consulting party  
Identify lineal descendants, Indian Tribes or NHOs with affiliation, associated funerary objects, and duty of care  
Make a record of consultation



In person  
Physical inspection  
Multiple occurrences  
Written transcript  
Decision makers present  
Disclose sensitive information



Timeline  
Method  
Financial support

## STEP 4: COMPLETE AN INVENTORY.



Consultation  
information  
Itemized list, updated  
Determination of  
lineal descendant or  
affiliation  
If no affiliation, explain  
why



Cultural affiliation  
record or justification  
Details shared during  
consultation  
Sensitive information  
of any kind



Organization  
Level of detail  
Format

## STEP 5: SUBMIT A NOTICE.



Information and determination from inventory  
Total number individuals and funerary objects  
Contact information  
Calculated date when repatriation may occur



Site numbers  
Accession numbers  
Age, sex, or other detailed information



Organization  
Level of detail

## STEP 6: RECEIVE AND CONSIDER REQUESTS.



Joint request is a single request

Requestor is either:

- In the notice OR
- Shows affiliation by preponderance of the evidence



Additional information from requestor if in a notice

Additional information to support who is the most appropriate requestor



Manage and track requests

Protocols for considering requests

## STEP 7: RESPOND TO REQUESTS.



Written response to requestor and any other in notice  
One of the following:

- Meets the criteria
- Does not meet the criteria-more info
- Competing requests received



Internal committee or board approval  
Legal review  
Evaluation of additional information



Manage and track requests  
Protocols for responding to requests

## STEP 8: REPATRIATION.



Written repatriation statement to

- Requestor
- National NAGPRA

After statement, document physical transfer and protect sensitive information



Additional negotiation  
“Inventory verification”



Care and trust agreement  
Physical transfer

Steps to Repatriation	Shorter Timeline (40 days)	Longer Timeline (~3 years)
<b>Receive a new collection.</b>	Day 1	Day 1
<b>Step 1: Compile an itemized list.</b>	Day 2	Day 365
<b>Step 2: Initiate consultation.</b>	Day 3	Day 366
<b>Step 3: Consult.</b>	Day 4*	Day 367*
<b>Step 4: Complete an inventory.</b>	Day 5	Day 730-NLT 2 years after Day 1
<b>Step 5: Submit a notice.</b>	Day 6	Day 912-NLT 6 months after Step 4
<b>Publication of notice in Federal Register.</b>	Day 9 (min. 3 days after submission)	Day 938 (max. 26 days after submission)
<b>Step 6: Receive and consider requests.</b>	Day 9*	Day 938*
<b>Step 7: Respond to requests.</b>	Day 39-NET 30 days after publication	Day 1,028-NLT 90 days after Step 6
<b>Step 8: Repatriation.</b>	Day 40	Day 1,118-NLT 90 days after Step 7

# TIMELINES FOR REPATRIATION



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# UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, & OBJECTS OF CULTURAL PATRIMONY

## 25 U.S.C. 3004 Summary...

- (a) In general
- (b) Requirements (1) The summary required...
- (b) Requirements (2) Upon request ...

## 25 U.S.C. 3005 Repatriation.

- (a) Repatriation of Native American...
  - (2) If ...the cultural affiliation...
- (c) Standard of repatriation
  - (a)(4) Where cultural affiliation...
  - (a)(5) Upon request...

What is a summary?

What is required?

When is it required and what is NOT required?

Options in a summary

What is required after a summary?

Options after a summary

## WHAT IS A SUMMARY?

- In lieu of an object-by-object inventory
- A written summary based on available information held by the museum or Federal agency

25 U.S.C. 3004(b)(1)(A) and (a)

## WHAT IS REQUIRED FOR A SUMMARY?

- Describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable

25 U.S.C. 3004(a)

## WHEN IS A SUMMARY REQUIRED?

- No later than 3 years after November 16, 1990

25 U.S.C. 3004(b)(1)(C)

## WHAT IS NOT REQUIRED FOR A SUMMARY?

- **FOLLOWED** by consultation with tribal government and Native Hawaiian organization official and traditional religious leaders

25 U.S.C. 3004(b)(1)(B)

## WHERE IS THERE DISCRETION IN A SUMMARY?

Indian Tribes or NHOS MAY request

- Access to records, catalogues, relevant studies, or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession
- Information shall be provided in a reasonable manner

25 U.S.C. 3004(b)(2)

## WHAT IS REQUIRED AFTER A SUMMARY?

Museums and Federal agencies must:

- (d) Share information with lineal descendant, Indian Tribe, or NHO to assist them in making a request for repatriation
- (a)(2) Expeditiously return unassociated funerary objects, sacred objects, and objects of cultural patrimony upon request of an Indian Tribe or NHO, unless there is an exception\*
- (a)(3) Consult with requesting lineal descendant, Indian Tribe, or NHO on place and manner of delivery

\* Exceptions to expeditious repatriation are:

- (b) Delay of 90 days to complete a scientific study of major benefit to the United States
- (e) Competing requests for repatriation and cannot determine the most appropriate requestor



## WHERE IS THERE DISCRETION AFTER A SUMMARY?

Indian Tribes or NHOS MAY request repatriation

- Of culturally affiliated unassociated funerary objects, sacred objects, or objects of cultural patrimony
- With evidence to support a finding that the museum or Federal agency did not have a right of possession to the unassociated funerary object, sacred object, or objects of cultural patrimony

25 U.S.C. 3005(a)(2) and (c)

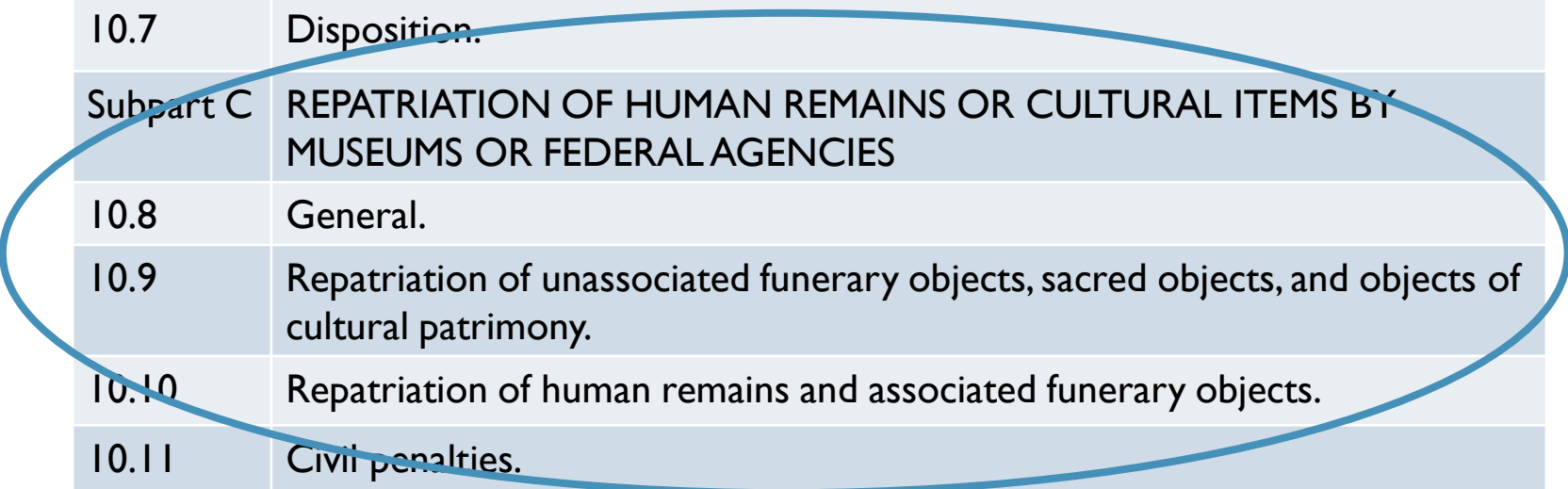
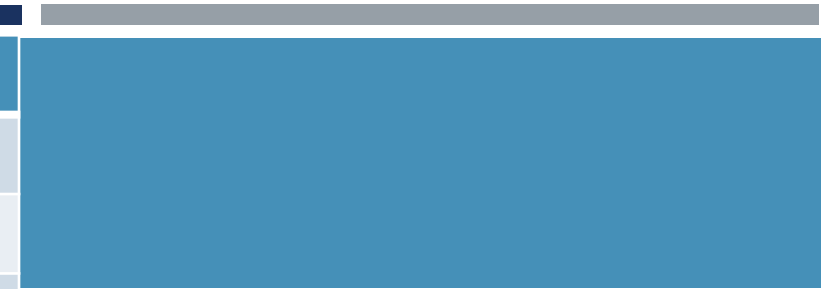
## WHERE IS THERE DISCRETION AFTER A SUMMARY?

Indian Tribes or NHOS MAY request repatriation if

- The Indian Tribe or NHO can show cultural affiliation of unassociated funerary objects by a preponderance of the evidence based on geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, other relevant information, or expert opinion
- The Indian Tribe or NHO can show sacred objects or objects of cultural patrimony were owned by the tribe or organization
- The Indian Tribe or NHO can show sacred objects were owned by a member and there are not identifiable lineal descendants

25 U.S.C. 3005(a)(4) and (5)

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10.10	Repatriation of human remains and associated funerary objects.
10.11	Civil penalties.
10.12	Review Committee.



# STEP 1: COMPILE A SUMMARY.



Estimated number and  
general description  
Geographical location  
Acquisition history  
Other information  
Hazardous substance  
treatment



Any kind of  
determination  
Physical inspection  
Research of any kind  
Study or analysis  
Rehousing or reboxing  
Drawing, photographing,  
or measuring



Organization  
Level of detail  
Format

## STEP 2: INITIATE CONSULTATION.



Lineal descendant  
Indian Tribe or NHO  
with potential affiliation  
Summary  
Names of consulting  
parties  
Proposed method



Conduct research to  
determine who to invite



Distribution  
Response method

## STEP 3: CONSULT.



Respond to any consulting party  
Identify lineal descendants, Indian Tribes or NHOs with affiliation, cultural items, and duty of care  
Make a record of consultation



In person  
Physical inspection  
Multiple occurrences  
Written transcript  
Decision makers present  
Disclose sensitive information



Timeline  
Method  
Financial support

## STEP 4: RECEIVE AND CONSIDER REQUESTS.



Joint request is a single request

Requestor shows:

- Object meets definition
- Affiliation
- No right of possession



Additional information beyond basic requirements

Additional information to support who is the most appropriate requestor



Manage and track requests

Protocols for considering requests

## STEP 5: RESPOND TO REQUESTS.



Written response with one of the following:

- Meets the criteria
- Does not meet the criteria-more info
- Meets criteria-assert right of possession
- Competing request



Internal committee or board approval  
Legal review  
Evaluation of additional information



Manage and track requests  
Protocols for responding to requests



## STEP 6: SUBMIT A NOTICE.



Abstract from  
summary  
Total number and brief  
description  
Requestor  
Contact information  
Calculated date when  
repatriation may occur



Site numbers  
Accession numbers  
Detailed information  
about objects



Organization  
Level of detail

## STEP 7: REPATRIATION.



Written repatriation statement to

- Requestor
- National NAGPRA

After statement,  
document physical transfer and protect sensitive information



Additional negotiation  
“Summary verification”



Care and trust agreement  
Physical transfer

Steps to Repatriation	Shorter Timeline (39 days)	Longer Timeline (15 months)
<b>Receive a new collection.</b>	Day 1	Day 1
<b>Step 1: Compile a summary.</b>	Day 2	Day 182-NLT 6 months after Day 1
<b>Step 2: Initiate consultation.</b>	Day 3	Day 212-NLT 30 days after Step 1
<b>Step 3: Consult.</b>	Day 4*	Day 213*
<b>Step 4: Receive and consider requests.</b>	Day 4*	Day 213*
<b>Step 5: Respond to requests.</b>	Day 5	Day 303-NLT 90 days after Step 4
<b>Step 6: Submit a notice.</b>	Day 6	Day 333-NLT 30 days after Step 5
<b>Publication of notice in Federal Register.</b>	Day 9 (min. 3 days after submission)	Day 359 (max. 26 days after submission)
<b>Step 7: Repatriation.</b>	Day 39-NET 30 days after publication	Day 449-NLT 90 days after publication

## TIMELINES FOR REPATRIATION