

Minnesota Historical Society

NAGPRA and Culturally Sensitive  
Objects Policy

Approved by the Executive Council  
June, 20 2013

**Minnesota Historical Society**  
**Statement of NAGPRA and Culturally Sensitive Objects Policy**

**Introduction**

(Terms that are italicized in this policy are defined at the end of the document.)

*The Minnesota Historical Society is a dynamic and widely recognized educational organization that is a trusted resource for history. It is highly valued for its historical resources, educational impact, service, advocacy and leadership. Our mission is to use the power of history to transform lives. To realize this, the Society makes available a wide range of materials chronicling Minnesota's history and culture. The Collections Department's goals are to collect and preserve; provide access and interpretation; and facilitate education and outreach. Through fostering a sense of history among all Minnesotans, the Society enriches the state's cultural environment and enables people everywhere to gain an understanding of the state's history and their place in it.*

As part of its responsibilities, the Society has acquired and preserved a substantial collection of objects associated with American Indians. These collections include approximately 8,600 ethnographic objects and 1,500,000 archaeological objects. The archaeology collections span the approximately 13,000 years of Minnesota's human history. The focus of the Society's ethnographic collections is the *Dakota* and *Anishinaabe* inhabitants of this region, though objects from other Native American cultures can also be found in the Society's collections. The Society continues to collect Native American objects that help to tell the contemporary stories of the *Dakota* and *Anishinaabe*. The Society serves as the repository for most cultural resource management projects in Minnesota as it meets federal curation standards. The Society also preserves and manages objects from its own historic properties and houses the archaeology collection previously held by the University of Minnesota's Department of Anthropology.

There are no known Native American *human remains* at the Minnesota Historical Society, though remains formerly in the Society's collection have been transferred to the Minnesota Indian Affairs Council. If fragmentary *human remains* are found within the Society's archaeological collection, they will be transferred to the Minnesota Indian

Affairs Council and processed according to NAGPRA and the Minnesota Private Cemeteries Act. More information can be found in the Society's Collections Policy.

### **Compliance**

The Society shall comply fully with all provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) passed by the U.S. Congress in 1990 (Public Law 601-101 and the Final Regulations, 43 CFR 10), with the 2011 Minnesota Private Cemeteries Act (Minn. Stats. 307.08), and with the "Procedures for the Implementation of Minn. Stat. 307.08" developed by the Minnesota State Archaeologist's Office and the Minnesota Indian Affairs Council. This policy applies to all *associated* and *unassociated funerary objects, sacred objects* and *objects of cultural patrimony*, as defined by NAGPRA (see appendix), that are part of the Society's collections. These laws, statutes, and procedures, along with its Collections Management Policy, direct the Society so that it might fully and effectively fulfill its legal obligations, preserve invaluable resources for research into the past, respect the customs and traditions of all peoples, and make these objects available for research and exhibit in an appropriate manner.

The Minnesota Historical Society's Executive Council has primary authority for all activities and decisions related to the institution's collections. Operational responsibility is delegated to the Society's director and Collections staff.

The Senior Curator, Head of Archaeology and NAGPRA Officer serve as coordinators for the Society's NAGPRA activity and compliance, in consultation with other Society staff and members of the institution's Indian Advisory Committee who consider and advise on NAGPRA issues. The NAGPRA staff will report periodically to the Society's Executive Council and to the Indian Advisory Committee on their NAGPRA activities.

### **Consultation**

Consultation is the meaningful and prompt process of investigating, reviewing, and reflecting carefully on the views of *Federally-Recognized American Indian Tribes* and *lineal descendants*, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. The Society recognizes consultations with Native

American tribes as the foundation of the repatriation process, and does so with *Federally-Recognized American Indian Tribes* and *lineal descendants* regarding the tribal affiliation of *sacred objects*, *objects of cultural patrimony*, and *funerary objects* in the Society's collections. The Society has a formal relationship with Minnesota tribes through its Indian Advisory Committee, established in 1987. This group comprises a representative appointed by each of Minnesota's 11 Tribal Chairs, 5 at-large members, and 3 educational chairs chosen by the appointed committee members. In addition the body includes a standing seat for the director of the Minnesota Indian Affairs Council, a representative from the Society's Executive Council, and two honorary members. Furthermore, relationships with *THPOs* of tribes outside of the state of Minnesota also exist.

While the responsibility for establishing the cultural affiliation of collection objects lies with the Society, it will make every effort to seek information from the relevant tribe or tribes in establishing such associations. Tribal authorities will be permitted reasonable access to the collections to examine objects in order to evaluate the cultural affiliation of objects listed in the Society's NAGPRA inventory. Consultation requests by tribal members or individuals acting on behalf of a tribe should be directed to the Society's NAGPRA Officer. Following federal directives, the Society will respond to these requests within thirty days. Only the NAGPRA Officer, Curator, Collections Manager, Head of Collections, Head of Archaeology and Director are authorized to allow consultations to NAGPRA-eligible and/or *culturally sensitive objects*, which will be made on a case-by-case basis. Authorized tribal members or individuals acting on behalf of the tribe are required to sign a Collections Access Agreement. It is the responsibility of the NAGPRA Officer to create and maintain complete files on a requested object.

The Society acknowledges the diversity of opinions, beliefs and concerns, especially among contemporary Indians and others regarding appropriate treatment, use and potential disposition of these objects. It is expected that, as concepts of Native spirituality grow and change, the Society's policies regarding *sacred objects* and *culturally sensitive objects* will require revision.

## Acquisition, Care and Use of Collections

As with all collection objects, the acquisition, use and disposition of objects subject to NAGPRA and state law are governed in general by the Society's Collections Management Policy. The following policies apply specifically to *human remains, funerary and sacred objects, and objects of cultural patrimony*.

The Society no longer acquires *human remains* or *funerary objects* for its collections.

The acquisition of *sacred objects* and *objects of cultural patrimony* is subject to the provisions of NAGPRA and in consultation with appropriate *Federally-Recognized American Indian Tribe* or *lineal descendant* representatives and with the Society's IAC. The Society also consults, as appropriate, with IAC members and other tribal representatives such as *THPOs* and Native elders concerning issues surrounding particular *sacred objects*.

Designated staff members are responsible for the safety of museum objects and have the responsibility to follow the Society's directives governing collections care – administrative, physical and spiritual. No staff member will be required to handle sacred or culturally sensitive objects against her or his will.

## Access

The Society manages *sacred objects, objects of cultural patrimony, and culturally sensitive objects* responsibly and with sensitivity. They receive minimal handling, are stored in a culturally appropriate manner whenever possible, are isolated from other collection types, and are stored for ease of physical access by Native American elders.

Access to objects may also be facilitated via digital images from the Society's collections database for those who cannot visit the collections. Digital images of *sacred* or otherwise *culturally sensitive objects* will only be available upon request approved by the NAGPRA coordinators, but will not be made readily available to the general public.

The Society welcomes appropriate use of all the collections in its care. Although physical access to the objects associated with Native Americans is generally granted for legitimate research, educational, or religious purposes,

the Society recognizes that some objects in the collections are of a highly sensitive nature. Requests for access to such objects are subject to review by the NAGPRA coordinators and members of the MIAC, if appropriate. The Society will make every effort to be as transparent as possible with *Federally-Recognized American Indian Tribes* and *lineal descendants* regarding objects in the collection. The Society will work with *Federally Recognized American Indian Tribes* and *lineal descendants* to determine what objects fall under NAGPRA and what objects are *culturally sensitive*. However, whether or not culturally sensitive objects are made accessible is ultimately at the discretion of the Society.

Requests for access must include a written statement that explains the reason for access, specifies the collection objects needed, and describes their intended use. Official NAGPRA visits must be preceded by a letter of intent and identification from the tribal chair, directed to the NAGPRA Officer. Exceptions to these policies may be made in the case of objects used by members of the affiliated Native American groups.

### **Care**

The Society makes every effort to safeguard items in the collection and ensure their long-term preservation. Objects reside on shelves or drawers within custom designed steel cabinets. The interior drawers and shelves of the cabinets are configured to best preserve and access objects, and many collections have mounts to provide better preservation support. The cabinets are all locked when not in use in the secure storage area within the Minnesota History Center.

The Society furthermore understands that proper curation of *culturally sensitive objects* require special care, including the maintenance of their cultural care. The Society will make every effort to accommodate those needs.

Some of the steps already taken in collections storage include:

Separate storage of *culturally sensitive objects* away from other objects in such a manner that they are not accidentally in plain view when other objects are accessed;

Use of offerings of tobacco, sage, cedar and/or sweetgrass in individual drawers and shelves with *culturally sensitive objects*;

The manufacture of special covers for *culturally sensitive objects* that require them when they are not in use;

The allowance for ritual smudging of objects;

Restrictions on certain traditional methods of museum conservation for *culturally sensitive objects*;

And the restriction of *culturally sensitive objects* from display in public exhibit areas of the museum.

The Society acknowledges that these policies will change as concepts of appropriate care change.

### **Loans**

The Society will make decisions regarding loans of *culturally sensitive* and *sacred objects* in consultation with the appropriate tribes. Loans will not be made if the written permission from the appropriate entity cannot be obtained. Temporary or long-term loan of the Society's *culturally sensitive objects* to their home communities for use in that community will also be considered.

### **Repatriation**

The Society's review of repatriation requests will comply with both the letter and the spirit of the law by expeditiously and respectfully evaluating each claim on a case-by-case basis. Review will reflect consideration of Native American, academic, and scientific expertise, and will provide for consultation with each requesting individual or group and, in some cases, with others who may have an interest in the objects. Every effort will be

made to enter into equal and open communication with the communities that connect themselves to the objects in the Society's custody. The Society understands that all Native American material is part of the intellectual and cultural heritage of its respective cultural origin, and that repatriation is part of the process of a close and collaborative relationship with Native American tribes.

The NAGPRA Officer is the principal contact for repatriation requests, their processing, and for subsequent discussion. The Society has adopted a NAGPRA process to document and retain permanent records of all repatriation requests and the content and recipients of all repatriations. That process is described in a flow chart appended to this document.

Requests from *Federally-Recognized American Indian Tribe* for repatriation of collections are subject to the Society's Native American Graves Protection and Repatriation Act procedures, the consultation process previously described, and the provisions of the Society's Collections Management Policy for deaccessioning objects from its collection.

While official NAGPRA visits must be preceded by a letter of intent and identification from the Tribal Chair, the Society acknowledges the presence in Minnesota of individuals and groups identifying themselves as American Indians, but not being official representatives of *Federally-Recognized American Indian Tribes*. Such individuals or groups have the same rights to visit the Society's collection facilities as any other patron, consistent with appropriate procedures and directives.

The Society is directed by applicable local, state and federal laws regulating any repatriation requests from such individuals or groups.

Once repatriation has been approved, staff will carry out the process in accordance with the provisions of NAGPRA. Physical transfer of objects to the tribe or individual will be arranged on a case-by-case basis in consultation with the tribe or individual to determine the best method possible for the tribe and for the Society.



If a repatriation request is denied, the Society will inform the requesting tribe in writing of the reasons for that denial.

If multiple and conflicting requests are made for repatriation and the Society is unable to determine which, if any, requesting party is the appropriate claimant, the Society will retain and preserve the disputed objects until the requesting parties reach agreement or until the dispute is resolved, if necessary, through mediation by the NAGPRA Review Committee.

In the event that the cultural or familial affiliation of an object in the Society's collections is established with a *Federally-Recognized American Indian Tribe* or *lineal descendant* but the group or descendant does not wish to pursue repatriation, the Society will retain the object. The Society will seek guidance from the affiliated group regarding curation methods and the future use of the object for the purposes of research, access, exhibit, and education. The Society may also act as a repository for a repatriated object at the request of a *Federally-Recognized American Indian Tribe* or *lineal descendant*; in this instance, the object in question is treated as a loan to the Society by the *Federally-Recognized American Indian Tribe* or *lineal descendant*, to be negotiated by the Society's Registrar.

Under NAGPRA, only *Federally-Recognized American Indian Tribes*, Native Hawaiian organizations, and *lineal descendants* may claim cultural objects. NAGPRA does not require museums and Federal agencies to consult with non-federally recognized tribes. However, the *Native American Graves Protection and Repatriation Review Committee* has recognized that there are some cases in which non-federally recognized tribes may be appropriate claimants for cultural objects. Museums, if they wish, may consult with non-federally recognized tribes. Museums and Federal agencies that wish to return Native American cultural objects to non-federally recognized tribes must make a request for review of a proposed disposition to the *Review Committee*.

Anyone claiming ownership of such objects curated by the Society must submit documentation of his or her claim in writing to the Director of the Society. The Director will forward the claim to the appropriate staff for review; a determination on such claims will be made on a case-by-case basis.

**Dispute Resolution**

In any dispute regarding repatriation or another NAGPRA-related matter, the Society will endeavor to resolve the dispute through negotiation. In the event that a good faith effort to resolve the dispute is unsuccessful, the Society will submit documentation to the NAGPRA Review Committee. Subsequent actions will be determined on a case-by-case basis by the Society's Executive Council.

**Repatriation outside of NAGPRA**

The Society acknowledges the presence of *culturally sensitive* Native American objects in its collection. These are objects which may not meet the explicit legal definition of *sacred object* or *object of cultural patrimony* as described by NAGPRA, but which nevertheless are centrally important to their cultures of origin. It is the Society's aim to not only comply with the legal standards set out by NAGPRA, but to move beyond the realm of simple legal obligation to Native American tribes whenever possible. The principles of respect, mutuality, and dialogue will be used to direct how the Society deals with any claims outside the legal boundaries of NAGPRA.

Claims made on objects that fall outside of NAGPRA will be considered, and will generally follow the protocol set forth by NAGPRA.

## ADDENDA

### A. Definitions of Terms

A *Federally-Recognized American Indian Tribe* is any tribe, band, nation or community of Indians recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

A *Lineal Descendant* is a relative in the direct line of descent of an ancestor. Examples of lineal descendants include children, grandchildren, and great-grandchildren.

*Human Remains* are the physical remains of a human body of a person of American Indian ancestry. The term does not include remains that may have been freely given or naturally shed by the individuals from whose body they were obtained, such as hair made into ropes or nets.

For the purposes of determining cultural affiliation, human remains incorporated into a funerary object, sacred object or object of cultural patrimony, must be considered part of that object.

*Associated Funerary Objects* are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with or near the individual human remains either at the time of death or later; both the human remains and associated funerary objects are presently in the possession or control of the museum. Objects exclusively made for burial purposes or to contain human remains will be considered associated funerary objects.

*Unassociated Funerary Objects* are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with or near the individual human remains either at the time of death or later; the remains are not in the possession or control of a federal agency or any museum. The objects can be identified by a preponderance of the evidence, as related to specific individuals or families or to known human remains or as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe.

*Sacred Objects* are specific ceremonial objects that are needed by traditional American Indian religious leaders for the practice of traditional American Indian religions by their present day adherents.

*Objects of Cultural Patrimony* are objects having ongoing historical, traditional, or cultural importance central to the American Indian group or culture itself, rather than being property owned by an individual American Indian. Therefore, they cannot be alienated, appropriated, or conveyed by any individual regardless of whether the individual is a member of the American Indian tribe or Native Hawaiian organization; such American Indian groups will have considered such objects inalienable at the time the objects were separated from such group.

*Culturally Sensitive Objects* are objects whose treatment or use is a matter of profound concern to living peoples. They are generally objects considered sacred to their group of origin, but which may not qualify as a *sacred object* under NAGPRA. They may also include photographs, artworks, and other portrayals of human remains, religious objects, and sacred or religious events.

*THPOs (Tribal Historic Preservation Officers)* are those officially designated by federally-recognized Indian tribes to direct programs approved by the National Park Service that incorporate tribal cultural values into a tribe's historic preservation plan.

*Anishinaabe* refers to the indigenous people of the State of Minnesota (and elsewhere) also known as the Ojibwe, Ojibwa, Ojibway, and Chippewa.

*Dakota* refers to the indigenous people of the State of Minnesota (and elsewhere) also known as the Sioux.

The Society's *NAGPRA Committee* consists of the Registrar, Senior Curator, Collections Manager, Head of Archaeology, NAGPRA Officer, Head of Collections, and appropriate SHPO representative.

The *Native American Graves Protection and Repatriation Review Committee* is a federal committee that was established under NAGPRA "to monitor and review the implementation of the inventory and identification process and repatriation activities." They request information on compliance with the law and they make annual reports to

Congress. They also hear disputes on factual matters to resolve repatriation issues between Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations with museums and Federal agencies.

**B. MHS NAGPRA Committee Staff Members (by title)**

Collections Associate, NAGPRA Coordinator

Collections Manager

Registrar

Head of Archaeology

Collections Associate, American Indian Collections Outreach

National Register Archaeologist

Senior Curator, 3d objects

Head of Collections

## C. NAGPRA Process Flow Chart

