

2017-18 Report from the AAPA Committee on Repatriation Submitted by Ben Auerbach (Chair)

This is the annual report of the AAPA Repatriation Committee from April 2017 to March 2018. Members on the committee during this period were Steve Ousley, George Milner, and Benjamin Auerbach (chair).

In November 2017, the committee was alerted to a U.S. Senate bill proposed by Sen. Martin Heinrich (D-New Mexico), S. 1400: Safeguard Tribal Objects of Patrimony Act of 2017. It proposes voluntary return of “tangible cultural heritage,” though this is defined to encompass almost anything of Native American manufacture. The bill is so broadly written that it could apply to private collectors equally with state museums and research institutions. It is unclear what problem the law is trying to remedy. If it is trying to get private collectors to return objects, and to end the black-market trade in Native American materials, then it would be redundant with existing protections provided by NAGPRA, NMAI Act, and the Antiquities Act. Furthermore, the law, if passed, would at best reinforce the return of objects to indigenous groups, but does not provide more than a mechanism for creating a panel to develop rules (like NAGPRA) that carry the weight of law without going through the legislative process. It is not productive toward reaching mutually amicable agreements between researchers and native groups, and if anything will increase divisiveness between the groups.

Currently, the bill appears to be moribund. It was presented to the Senate Committee on Indian Affairs on the 8th of November 2017, and no further action has been taken. No companion bill in the U.S. House has been enacted, and according to the GovTrack website (<https://www.govtrack.us/congress/bills/115/s/1400>), it is unlikely that the Senate bill will be enacted.

Nevertheless, the AAPA should remain vigilant that this type of legislation is under consideration, and the leadership of the association may wish to take action in the form of a letter to the bill sponsor to provide the association’s advocacy for the preservation of existing laws without the burdensome addition of this redundant act. The committee did not press for such communication in November, given the lack of action on this version of the proposed act.

Between April 1, 2017, and March 30, 2018, 110 notices of inventory completion were published in the Federal Register. While these represent a range of institutions, including archaeological firms, universities, and museums, most represent the repatriation of small numbers of Native American individuals from each location.

One notable exception concerns the more than 6,000 archaeological Native American human remains held by the Tennessee Valley Authority (TVA), the University of Alabama, and by The University of Tennessee. While notices of inventory completion have yet to be filed, numerous sites from the Tennessee River Valley, from South Dakota, and from Texarkana are in the process of being prepared for disposal to the Chickasaw, Cherokee, Muscogee Creek, Arikara (MHA), and Caddo Nations. All of the Arikara ancestral remains curated by The University of Tennessee are currently under a research moratorium and will likely be repatriated within the next twelve to eighteen months. Among the other sites that are subject to disposal (under the rules of 43 CFR 10.11 of NAGPRA), the AAPA should be aware that many are large cemeteries or burial complexes that date to the Archaic period (most more than 4000 years BP), including

some individuals from the early Holocene. The timeline for the return of these sites is currently uncertain.

Looking ahead to the upcoming year, the committee has two action items for consideration with input from the Executive Committee:

- 1) The committee's efforts would greatly benefit with more members and more diverse representation of the society. We ask the Executive Committee to aid the committee by expanding and formalizing the size of its membership. Ben Auerbach as already spoken informally with some members of the AAPA about their interest in serving, were it possible, and those individuals have affirmed their desire to help the committee.
- 2) Throughout its existence in its current form, the committee has been reactionary in nature. In addition, the committee has been largely focused on repatriation laws and efforts in the United States, though repatriation is occurring worldwide (as evidenced by recent media reports about the Ainu and Kyoto University, for example). The committee serves as an important intermediary between the AAPA and sister societies (the American Association of Museums, the Society for American Archaeology, and other professional societies), as well as a participant in national NAGPRA calls and actions (when these have occurred). While it serves an essential function by communicating with institutions and individuals about repatriation concerns, the committee has generally waited until information was brought to it from these sources, and the majority of responses have taken the form of legal briefs and letters.

We propose that the committee becomes more proactive, especially in light of increased activity in relation to 43 CFR 10.11 (disposal of culturally unaffiliated remains) in the U.S. and global repatriation efforts. A key element in the mission of the AAPA is outreach, and improved, centralized communication for members of the society with indigenous groups worldwide would be of great benefit to the society. With input from the Executive Committee, the mission of the Repatriation Committee could be expanded to serve as a central outreach committee between scientists and indigenous, often underrepresented groups, if only to simply coordinate the efforts already being made by individuals and groups within the AAPA.