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**Draft Recommendations Regarding the
Disposition of Culturally Unidentifiable
Human Remains and Associated
Funerary Objects**

AGENCY: National Park Service, Interior.

ACTION: Notice and request for
comments.

SUMMARY:

The Native American Graves Protection and Repatriation Act (25 U.S.C. 3007(c)(5).) requires the Review Committee to recommend specific actions for developing a process for the disposition of culturally unidentifiable Native American human remains. The seven individuals on the committee have given this matter great thought and have developed the enclosed draft outlining their position and several options. The enclosed draft is intended for wide circulation to elicit comments from Indian tribes, Native Hawaiian organizations, museum, Federal agencies, and national scientific and museum organizations. We are publishing this draft in the *Federal Register* for broad public comment.

EFFECTIVE DATES:

Comments should be received by September 30, 1995 in order for them to receive the committee's full consideration at their next scheduled meeting. For additional information, please contact Dr. C. Timothy McKeown at (202) 343-4101.

Please note that we will not accept any comments in electronic form.

ADDRESS FOR COMMENT:

Anyone interested in commenting on the committee's draft recommendations should send written comments to:

The NAGPRA Review Committee
c/o Archeological Assistance Division
National Park Service
Box 37127, Suite 210
Washington DC, 20013-7127

Dated: June 14, 1995

Veletta Canouts,

Acting, Departmental Consulting
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Acting Chief, Archeological Assistance
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Call For Comments

Draft Recommendations By The

N.A.G.P.R.A. Review Committee

On The Disposition Of

Culturally Unidentifiable

Native American Remains

Under NAGPRA (25 U.S.C. 3007(c)(5)) the Review Committee is specifically charged with "compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains." What follows below is a draft of recommendations from the Review Committee to the Secretary in compliance with the mandate in NAGPRA. This draft is intended for wide circulation to elicit the comments, suggestions and opinions of members of Indian tribes, Native Hawaiian organizations, scientific organizations, and museums as described under 25 U.S.C. 3007 (e). We wish to emphasize that these recommendations are preliminary and every element is open to change depending on the comments of the public.

In fulfilling their responsibility, the Review Committee makes the following observations and recommendations:

1. Although the disposition of culturally "unidentifiable human remains" is left open in NAGPRA, there is a firmly established principle in the act that assigns responsibility for what happens to human remains and associated funerary objects to lineal descendants and culturally affiliated tribes. This general principle should be followed in determining the disposition of culturally "unidentifiable human remains" that are known to be ancestral Native Americans. It is true that there are remains and associated funerary objects in museums and Federal agencies for which it is not possible to identify specific cultural connections to any particular tribe today. However, such remains and objects, no matter how ancient, are nevertheless Native American, and they should be treated according to the wishes of the Native American community. *Ultimately, decisions about what happens to the remains of Native American individuals from anywhere in the United States and associated funerary objects should rest in the hands of Native Americans.* These decisions can and should be informed by anthropological, archaeological, historical, folkloric, biological, linguistic and spiritual evidence, and nonNative Americans can

and should be consulted when appropriate in the decision making process. However, the final decision should be made entirely by Native American people.

2. Although the Act specifically mentions only "unidentifiable human remains", it is consistent with other aspects of the Act to include in this discussion "associated funerary objects" as well. Therefore all recommendations on the disposition of unidentifiable human remains also apply to any funerary objects that are associated with those remains as those terms are defined in the Act. It may be that additional legislation will be required to insure that Native American groups are provided with the opportunity to repatriate associated funerary objects accompanying unidentified remains.

3. The Committee has heard extensive testimony from physical anthropologists and archaeologists as to the broader scientific, medical, and humanistic values that may be gained from analysis of Native American skeletal remains from both the recent and distant past. While the Committee recognizes there may be potential value in such analyses, such values do not provide or confer a right of control over Native American human remains that supersedes the spiritual and cultural concerns of Native American people who clearly have the closest general affiliation to these remains. The issue is not whether there is positive benefit to be gained from analysis of remains, but who has the right and responsibility to make decisions about whether such analysis should take place.

It is the responsibility of archaeologists and physical anthropologists to communicate with Native American tribes and groups to inform them of the potential values of analysis of human remains and associated funerary objects and allow the tribes and groups to use this information as they choose in making their decisions about the treatment and disposition of those remains and objects.

4. The term "unidentifiable human remains" can be applied to three different groups of remains and these should be considered separately. The three categories include: 1. remains for which there is cultural affiliation with Native American groups who are not formally recognized by the BIA; 2. ancient remains for which there is specific information about the original location and circumstances of the burial; and 3. remains which may be Native American but which lack information about their original burial location.