American
Association
of
Museums

May 10, 1993

The Honorable John McCain
Vice Chairman
Select Committee on Indian Affairs
U.S. Senate
Washington, DC 20510-6450

Dear Senator McCain:

This is in response to your recent letter about implementation of P.L. 101-601, the Native American Graves Protection and Repatriation Act. While we do not have definitive data on the implementation process, we do have some anecdotal information, as well as the results of a recent survey of a sample of AAM members, on this issue.

Founded in 1906, AAM serves and represents the nation's museum community of over 8,000 museums of all types, including history, art, natural history and natural science museums, zoos and botanical gardens, arboretums, planetariums, children's museums, and historic museums, sites and societies. AAM's membership of 2,700 institutions and 8,300 individual members includes museum directors, museum trustees, curators, registrars, educators, marketing and development directors, membership and public relations directors, museum studies professionals and students, exhibition directors and volunteers.

As you know, regulations to implement the law have not yet been issued in final form. In addition, funding for implementation of the repatriation process, while authorized by your Committee in NAGPRA, has not yet been provided. (However, President Clinton's budget for FY 1994 does propose $2.75 million for grants and $0.25 million for administration for this purpose.) Nonetheless, many museums have begun the repatriation process on their own, as best they can. AAM has supported that effort, both by providing detailed information and guidance about the process (see the attached materials from AAM's Technical Information Service), and by seeking, via a coalition representing the museum, tribal, archaeological and university communities, to encourage issuance of the final regulations and start-up funding for the repatriation grant program authorized under NAGPRA's Section 10. (Please see the attached Congressional testimony by the coalition.)

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Each museum presents a unique set of circumstances--types of holdings, degree of inventory control already in place, level of staff expertise in Native American materials, etc. Attached are examples of two museums--the Field Museum and the University Museum at the University of Pennsylvania--for which we have some detailed anecdotal information about the impact of implementation of NAGPRA, to give a sense of the unique circumstances for particular museums.

In addition, the AAM undertook a survey in February 1993 to help determine such information as how many museums are affected by NAGPRA compliance issues, how many objects are involved, and what estimates of costs might be at this time. While a full statistical analysis has not yet been completed, a preliminary look at the figures shows some interesting results.

We sent the survey to 500 member institutions and had a response rate of 43.6 percent. The survey included AAM's entire population of natural history museums and a systematic sample of our art and history museums. The response rate among 130 natural history museums--the group we correctly assumed to be most highly affected--was 47 percent.

Among 61 responding <u>natural history</u> museums

- 76 percent have Native American objects;
- the total number of objects was 20,302,825 (not counting three large institutions that could not estimate total numbers of Native American objects at this time);
- 3,477,717 of those objects fit into NAGPRA-affected categories (not counting 12 institutions that could not make an accurate estimate at this time); and
- the total estimated cost of compliance for those 61 museums was $15,533,825 (not counting 11 institutions that could not estimate cost at this time.)

All sizes of institutions showed large numbers of objects, although--as was the case with art and history museums--smaller institutions were less able to estimate realistic costs. (Note: while estimates of objects and of affected objects are likely to be fairly reliable, it is our view that estimates of costs, when aggregated, may not be as reliable, given the variety of underlying assumptions likely to have been used in making each individual estimate. For example, different museums would likely make different assumptions about the costs to that institution for processing different classes of objects, depending on how much existing expertise they had on staff at this time, how much training would be required, how many tribal consultations they

would need, etc. Museums with more experience in actual repatriations would likely generate more reliable and comparable data, and in the aggregate, their figures are mixed in the above data--and in the data from art and history museums below-- with those from museums with less experience. In brief: only broader experience with the actual repatriation process will produce more reliable data on the costs for the field as a whole.)

Among 57 responding art museums (8 percent of our membership):

- 23 percent have Native American objects;
- the total number of objects was 13,085;
- 1,683 of those objects fit into NAGPRA-affected categories; and
- the total estimated cost for those 57 museums was $58,930.

Among 87 responding history museums and historic sites (7 percent of our membership):

- 43 percent have Native American objects;
- the total number of objects was 1,184,626;
- 18,016 of those objects fit into NAGPRA-affected categories; and
- the total estimated cost for those 87 institutions was $325,700.

Among small history museums, 65 responded, of which 34 were not affected. This should be placed against the following statistic: there are 4,500 history museums nationwide, 90 percent of which are small. (Many small museums are not represented in AAM's institutional membership.)

Without rigorous statistical analysis, we cannot project costs for the museum universe. But it seems fair to say that thousands of museums across the country are affected to some degree by NAGPRA. (Note: This survey was of 500 museums, with slightly more than 200 responding. The total estimated number of museums in this country is about 8,500.)

We asked museums for comments and suggestions. An overwhelming number suggested that a national clearing-house be established for such information as lists of tribes--with examples of what those tribes consider to be sacred objects or

objects of cultural patrimony--and lists of experts who could be consulted. Many said that in the absence of such clearing-house, a large number of institutions would have to "reinvent the wheel." (Such a clearing-house would likely be of most use to the large number of small museums with few objects and little in-house expertise.)

An overwhelming number also expressed the opinion that the statutory deadlines were unrealistic, since no final regulations are available. Other concerns included the need for regulations to include examples of acceptable collections and inventories, and the difficulty in determining which federal agencies owned lands from which objects were recovered.

Turning to your specific questions:

1. We have no information on this question. We have not heard of museums excavating or discovering Native American cultural items on federal or tribal lands after Nov. 16, 1990.

2. & 3. Many museums are at work on their required NAGPRA summaries and inventories, according to our survey, and some actual repatriations have taken place. As we noted above, a much broader cross-section of museums have been affected than we had expected, including 23 percent of responding art museums, 76 percent of responding natural history museums, and 43 percent of responding history museums. Our estimate is that several thousand museums are affected.

   Clearly, the delay in promulgation of final regulations, along with lack of funding for the authorized grant program, has slowed the summary and inventory process.

4. Our survey provides some information here. Of those responding, 34 percent of those with Native American objects of any kind have conducted some form of repatriation activity, and 36 percent of respondents with objects had contacted or been contacted by tribes. 88 percent of these contacts were described as "proceeding smoothly;" 12 percent had not gone as well. Only 5 percent of respondents with substantial collections (i.e., more than 2,000 pieces) had not already started repatriation activities or discussions with tribes, and 37 percent of respondents with Native American collections had already experienced problems with repatriation that they had not anticipated.

5. The National Park Service can give the definitive response here. As you know, the Review Committee has

been formed and has completed its work on draft regulations.

6. As mentioned above, no funds for Sect. 10 grants have been provided to date, but the FY 1994 Clinton budget does propose $3 million for this purpose in the National Park Service budget. The need is certainly there: our very limited survey revealed more than 22 million Native American objects in responding museums. Of these, more than 3.5 million objects were identified as fitting NAGPRA-covered categories, and since 20 responding institutions could not identify which of their objects might qualify, the number is probably dramatically higher.

7. Again, the National Park Service can provide definitive information here. We understand that Draft IV of the regulations, which the Review Committee intends for publication in the Federal Register for formal public comment, is currently awaiting final approval at the Office of Management and Budget before publication. (The NPS had circulated previous drafts of the regulations for informal public comment.)

I hope that this information is helpful to you. Please let me know if we can be of further help.

Sincerely,

Jason Y. Hall

Director
Government Affairs

cc: Ed Able
Pat Williams
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