

**U.S. House of Representatives  
Committee on Resources  
Hearing on H.R. 2893  
A Bill to Amend the Native American Graves Protection and Repatriation Act**

**June 10, 1998**

**Testimony of the American Association of Physical Anthropologists  
Presented by Phillip L. Walker, Ph.D.**

Mr. Chairman, the American Association of Physical Anthropologists (AAPA) appreciates the opportunity to comment on the amendments Rep. Hastings has introduced to the Native American Graves Protection and Repatriation Act (NAGPRA).

The AAPA is the world's leading professional organization for physical anthropologists. We currently have more than 1500 members with research interests in all areas of human biology, including the scientific study and interpretation of human skeletal remains spanning entire history of humankind from our African origins to modern times. At our recent annual meeting, our members unanimously voted to support H.R. 2893.

The AAPA was part of the coalition of Native American and scientific groups that worked for the passage of NAGPRA. We continue to support the key goal of NAGPRA, which is to ensure that culturally affiliated Native American groups are allowed to make decisions regarding the disposition of their ancestral remains. This commitment to repatriating remains to culturally affiliated groups is why we support H.R. 2893.

It will allow scientific research to continue to enhance our understanding of the past and, at the same time, protect the ability of Native American tribes and Hawaiian organizations to decide the disposition of culturally affiliated human remains, funerary objects, sacred objects, and objects of cultural patrimony.

I am personally deeply committed to goals of NAGPRA. In 1992 the Secretary of Interior appointed me to the NAGPRA Review Committee for a five-year term. During my tenure on the committee I worked on the regulations for the act and helped mediate disputes arising from its implementation.

Although the goals of NAGPRA are laudable, I know from my work on the Review Committee that it is not a perfect piece of legislation. For example, several of its definitions could benefit from further clarification and fail to anticipate problems museums and Native American groups have encountered when they attempt to comply with the NAGPRA.

We support H.R. 2893 because it and improves the consistency of scientific recording of remains recently discovered on federal lands and remedies a problem with NAGPRA relating to the repatriation of culturally unaffiliated remains.

The amendment removes the section from NAGPRA that uses recent land use as a basis for giving human remains and other cultural items to tribes that are not culturally affiliated with those remains. It seems clear, based on a close reading of House and Senate reports, that Congress did not pass NAGPRA with the goal of giving specific modern tribes special rights over remains they are culturally unaffiliated with.

Automatically giving remains to culturally unaffiliated groups is inconsistent with the key goal NAGPRA and also precludes the possibility that future research will allow the correct cultural affiliation of such remains to be determined. Instead, we believe that the disposition of such discoveries should be determined under the provisions of NAGPRA that deal with other culturally unaffiliated material.

A second objective of H.R. 2893 is to improve quality of the scientific information obtained from human remains, funerary objects, sacred objects, and objects of cultural patrimony that are discovered federal lands. This section of the amendment allows research to be done to determine cultural affiliation and strictly limits studies of culturally affiliated remains to work likely to result in significant new findings. All such studies must be completed within 180 days.

In this way, the amendment carefully balances the interests of tribes and Native Hawaiian organizations against the important information such studies can provide about our nation's heritage for the benefit of the American people. By clearly defining the conditions under which studies can be done, H.R. 2893 will eliminate problems that have arisen because of inconsistencies in the way that different federal agencies have interpreted NAGPRA's provisions for scientific research.

As a physical anthropologist, I am especially aware of the important role skeletal studies can play in helping to determine the cultural affiliation of Native American remains. Physical anthropologists have a long history of working with law enforcement agencies, federal officials, and Native American groups to provide a scientific perspective on the cultural affiliation of

inadvertently discovered human remains.

We believe that the intent of NAGPRA was for determinations of cultural affiliation to be made through careful evaluation of expert opinion provided by traditional Native American religious leaders and by scientists such as physical anthropologists and archaeologists. H.R. 2893 amends NAGPRA to make possible this evenhanded approach in which information is shared among all concerned parties.

Besides helping in the determination of cultural affiliation, the scientific research enabled by H.R. 2893 is important because of the unique historical perspective that physical anthropological studies can provide on the demography, diet, diseases, and social relations of earlier human groups. For example, I have found that skeletal evidence for the "battered child syndrome" that I commonly encounter in my forensic work, is absent in the skeletons of ancient Native American and European children.

This work has suggested some social explanations for the epidemic of child abuse we are currently experiencing in the United States. The broad comparative perspective provided by skeletal studies is also extremely valuable in helping us to unravel the environmental and genetic causes of diseases such as cancer and osteoporosis.

The American Association of Physical Anthropologists supports HR 2893 because it clarifies several problematic areas of NAGPRA while preserving the balance between the concerns of Native Americans and members of the scientific community that is central to the act. The amendment accomplishes this without diminishing the capacity of culturally affiliated tribes or Native Hawaiian organizations to repatriate ancestral remains. We thank you for allowing us to express our views on this important piece of legislation.