

DATE: May 14, 1990

TO: Senate Select Committee on Indian Affairs

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RE: Senate Bill 1980 and the Panel for a National Dialogue on
Museum/Native American Relations

We request that this letter and the attached statement be made part of the Hearing record for S.1980. We are unable to attend the Committee's Hearing, but appreciate this opportunity to state our general support for the draft substitute for S.1980 and to express a few of our concerns.

In the recent revision of S.1980, we note that several statements, phrases, and conclusions from the *Report of the Panel for a National Dialogue on Museum/Native American Relations* have been added as part of the Bill. As participants in this Dialogue, we are concerned that these items—particularly those concerning unaffiliated human remains—have been added without fully understanding the context of the Panel's deliberations.

The minority members of the Panel prepared a statement that was not included in the Panel's REPORT, and we ask that the Senate Select Committee consider this statement (attached) in their deliberations on S.1980.

In our opinion, although the Panel's majority indicated their desire to request reburial of unaffiliated remains, we do not believe that this issue was adequately examined and considered. We note that the three dissenting members of the Panel on this portion of the National Dialogue report were the only members with extensive experience in working with human remains and the problems of affiliation.

There are many portions of S.1980 that are important and will go a long way toward resolving past injustices; the issue of unaffiliated remains needs additional consideration and discussion. We respectfully ask that the portions of S.1980 that include references to unaffiliated remains be removed from the Bill.

Thank you for your consideration.

**THE PANEL FOR A NATIONAL DIALOGUE ON MUSEUM/NATIVE AMERICAN
RELATIONS: A MINORITY VIEW**

In the *Report of the Panel for a National Dialogue on Museum/Native American Relations*, we are cited in a number of footnotes as disagreeing with the majority of the Panel. We present this statement in order to clarify our position and some of the statements made in the *Report*.

We entered the Dialogue with the hopes that rational discussion and negotiation might lead to consensus on a series of issues of concern to Native Americans, the museum and anthropological communities, and the general public. We were fully prepared to compromise on some issues, while anticipating that on other issues there would be fundamental disagreement. The meetings themselves were significant, and a number of important issues were discussed at length. We have the greatest respect for the members of the Panel, and we learned much from our participation. Unfortunately, while we applaud the concept of the dialogue, we cannot say the same for the process that resulted in the Panel's *Report*. That process was pressured and hurried, and decisions were made without discussion by or input from all Panel members. We fear that this haste might result in unwanted and unforeseen consequences for the Panel's intentions. Also, we regret that the Panel failed to explore possible solutions that would meet American Indian concerns yet prevent destruction of unique and scientifically valuable museum collections.

The entire Panel met a total of four times during 1989, and a variety of topics were discussed. *It is important to understand, however, that at no time did the full Panel vote on any issue or formally agree to take a particular position.* In our opinion, there was clear consensus on two major issues: 1) museums should act in good faith in response to Indian requests for repatriation, and 2) museums should make every effort to respond positively to a repatriation request when there is a clear cultural link to the group making the request. These issues are important and major points, and indeed the bulk of the *Report* reflects this consensus.

We could provide a detailed discussion of our views on each item of disagreement, but this would provide the reader with little more than a detailed sense of frustration. Instead, we would like to explain the basis for all of our disagreements with the *Report*. The *Report's* recommendations come from the perspective of a presumption of dominance, and we would instead argue that the objective is equality.

There is no question about the nature of treatment of Native Americans in the United States. The record is abysmal and we must do all we can to rectify that treatment. Museums have operated from a position of dominance where even a question from a Native American could be ignored without fear of consequences. One's initial reaction might be to reverse this situation of museum dominance by putting Indians into the position of power and dominance. As much as that might appeal to some people's desires for retribution, we think that it is ultimately a poor decision. Reversing the relationship does not remedy it; it only perpetuates the fundamental inequality.

Our "footnotes" in the Panel's *Report* reflect our attempts to argue for equality. Making Native Americans the dominant power might make people feel better initially, but will do nothing in the long-run for the heritage of the country or for Native Americans. By arguing for equality, we are suggesting major changes for museums and other institutions with collections; they will have to incorporate the American Indian perspective and treat Native American claims equitably. This process will not be easy, but will benefit all for the future.

While we agree that there are cases in which such claims may be seen as human rights issues, we do not agree that such a determination mandates in all cases following the wishes of a nation or group (once again, the problem of dominance). We would point out that the final two paragraphs of the *Report* best represent the actual process that must be followed:

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Wherever possible, the disposition and treatment of skeletal remains and other materials should be determined consensually through cooperative and timely discussions between the institution involved and all interested Native American groups. Where issues remain after such good faith discussions, an attempt should be made to settle these issues through mutually agreed upon processes of mediation or arbitration.

If unresolved issues remain, applicable legal standards should be judicially enforceable. It is important that the process for enforcing these standards be equally accessible to all tribes and museums, regardless of their wealth or resources.

We thought that the *Report* should clearly state and focus upon those issues on which there was consensus; the *Report's* suggestions for "good practice" are ones that we urge all museum professionals to implement. We must achieve equal consideration for all parties. Unfortunately, we think that this critical issue has been overshadowed by some portions of the *Report* that will only ensure that the process of negotiating repatriation requests will be neither open nor fair.

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