CONFLICTS AND MISCONCEPTIONS OF THE REPATRIATION PROCESS

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CONFLICTS AND MISCONCEPTIONS OF THE REPATRIATION PROCESS

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DEDICATION

To the Potawatomi Nation, my friends, and family
Thank you for your support
The National Museum of American Indians Act of 1989 (NMAI) and the Native American Grave Protection and Repatriation Act of 1990 (NAGPRA) are two viable pieces of legislation that give tribal communities an opportunity to reclaim objects of ancestral heritage. However, the repatriation process uses academic and governmental mandates that support the colonialist perspective. The case study of the Logan Museum of Anthropology is one particular example of the conflicts and misconceptions about repatriation. This case study specifically focuses on the Potawatomi Nation and their interaction with present day NAGPRA legislation.

The case study of the Logan Museum of Anthropology raises questions about ownership and the types of evidence used to support a repatriation claim. The role of academia in the context of the NMAI Act and NAGPRA is focused through a variety of disciplinary fields such as anthropology, history, and art history.

With the current amendment to NAGPRA, “the CUHR ruling,” the process of repatriation is further convoluted. However, tribal nations are exploring methods of repatriation that entail collaborating with other tribal communities for a common goal. However, because these two pieces of legislation are unclear and lead to personal interpretation, the federal legislation must continue to amend and / or create new legislation to adjust the current mandates.
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"When Congress passed the repatriation provisions of the National Museum of the American Indian Act of 1989 and the Native American Grave Protection and Repatriation Act of 1990, it acted, in small measure, to reverse the historic pattern of one-way property transfers."

Due to the historic nature of this legislation, in November of 2010, the United States celebrated the 20th anniversary of NAGPRA with the National NAGPRA Symposium. The symposium was intended to bridge the gap of ideologies between tribal communities and the academic community, including museums. This legislation along with the National Museum of American Indians Act (NMAI) were the provision needed to legally redirect ownership of objects. 20 years later the discussion continues over one central question: “Who truly owns the past?” Moreover, this is a discussion about two acts of federal legislation, the NMAI and the Native American Grave Protection and Repatriation Act (NAGPRA). This discussion concerns the conflicts and misconceptions that reside within the repatriation process.

The legal capabilities afforded by the NMAI Act and NAGPRA provided tribal communities with an opportunity to reclaim ancestral heritage. Although, legislation that grants the ability to repatriate also has one detrimental flaw: interpretation. Much like the predecessors of the NMAI Act and NAGPRA, the Antiquities Act, National Historical Preservation Act (NHPA), American Indian Religious Freedom Act (AIRFA),

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and Archeological Resources Protection Act (ARPA), these laws neglected to provide the clarification of standards or definitions.

Repatriation is still considered a relatively new topic even though it has existed on the federal level just over two decades. In fact, this topic for the last two decades has caused a surge of debates. Through lectures, presentations, conferences, and symposiums two frequent questions are addressed: “What is repatriation and why is this issue perceived by many as misguided?” Some of the misconceptions reside within the definition of “repatriation.” In fact, the United States has two pieces of legislation that provide definitions of repatriation. The Smithsonian which operates under the NMAI Act clearly defines “repatriation” as, “the process whereby specific kinds of American Indian cultural items in a museum collection are returned to lineal descendants and culturally affiliated Indian tribes, Alaska Native clans or villages, and/or Native Hawaiian organizations.”\(^3\) The Smithsonian continues to state that “human remains, funerary objects, sacred objects, and objects of cultural patrimony are all materials that may be considered for repatriation.”\(^4\) However, the National Parks Service (NPS) which manages NAGPRA defines repatriation as, “the term repatriation means the transfer of physical custody of and legal interest in Native American cultural items to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations.”\(^5\) These definitions help define the obligations that museums have in the repatriation process. While these definitions make museums stewards of these objects the slight differences in definitions can cause conflicting interpretations. Since stewardship

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4 ibid
insinuates that museums are only temporary holders of the native objects that are found within their collection, these objects will at some point be repatriated.

In order to provide a tribal voice, this paper will focus on one particular tribe. The Potawatomi Nation is a focal point of this thesis because of its involvement with the collection at the Beloit College, Logan Museum of Anthropology, and due to this author’s native linage. Other tribal communities will serve as additional reference material. However, the Potawatomi Nation provides a singular perspective on how tribal communities may view repatriation, including foci on ethics, morals, and tribal heritage. However, the topic of repatriation draws on more than ethics, morals, and tribal heritage, it applies academia.

The topic of repatriation is an interdisciplinary perspective that draws on various academic fields, such as anthropology, history, and art history to name a few. Interdisciplinary methods are applied to the repatriation process to help eliminate doubt of tribal affiliation, intention of the object, and assist in the consultation process to either support or reject a repatriation claim. The uses of anthropological and historical perspectives are commonly applied to the repatriation process, more so even than those of art history. Both tribal communities and museums utilize academia to develop an appropriate claim; however, the burden of evidence is still on the tribal communities.

Conflicts and misconceptions are inevitable within this process since multiple ideologies are filtered into a single topic. The arguments within the repatriation extend well beyond the implementations of the NMAI Act and NAGPRA; yet, they are fueled by the lingering emotions of the past. Some perceive these pieces of legislation as
colonialist in nature, laws that dictate how and what tribal communities can repatriate. The NPS presents museums and tribal communities with guidelines that assist both through repatriation claims. This case study of the Logan Museum of Anthropology will show how museums and tribal communities are working together for a shared interest. Despite this there are still misconceptions within this field that are fueled by personal perception. Without these current guidelines and laws tribal communities would not have the opportunity to regain these pieces of their ancestral heritage.
Chapter 2

FEDERAL LEGISLATION:
THE FOUNDATION OF THE REPATRIATION PROCESS AND LAW

The NMAI Act and NAGPRA were influenced by previous legislation. These two laws were developed from a series of historical legislation that was implemented to protect and preserve tribal heritage. These pieces of legislation include the Antiquities Act of 1906, the National Historical Preservation Act of 1966, the American Indian Religious Freedom Act of 1978, and the Archaeological Resources Protection Act of 1979.

In the late 19th century and into the early 20th century, settlers moved westward into vast empty space that was occupied by Native Americans. This westward expansion provided an unsavory opportunity for people to disturb what may have been pristine archeological sites. With the hostility between the Native Americans and the United States, the westward expansion only fueled the public debate over archeological sites. “As a result, the public felt that its [(Native Americans)] heritage was in danger of being lost, and agitated for Congressional action to address this issue.”

Anthropologists pressed politicians to develop a piece of legislation that would assist in the preservation of these archeological sites and the Native American heritage. Anthropology during the early 1900s was still in its infancy; it did not have enough political sway to affect the preservation of archeological sites. In fact, the political

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7 Ibid.
system of this time controlled archeological sites and professional organization like, Archaeological Institute of America and the American Association for the Advancement of Science. Between the political perspective and anthropological concerns over vandals and destruction of sites, the law known now as the Antiquities Act took 6 years for development and implementation.

The Antiquities Act of 1906 was passed on June 8th, is seen as the foundation to the protection of archeological sites and tribal heritage. The act was developed with three major components, regulations on permits, superior authorization, and punishments. Permits were given only to museums, reputable institutions, or universities. These permits allowed institutions to excavate, examine, and remove objects found at these archeological sites for further studies and for other educational purposes. These permits also allowed those reputable organizations to go into these “sites owned or controlled by federal land managing agencies (which, in 1906 comprised of the Departments of the Interior, Agriculture, and War),” excavate and legally obtain ownership over those objects found. Secondly, the President of the United States and the Secretary of Interior, according to the Antiquities Act, had ultimate authority. At that time, President Theodore Roosevelt had the authority to dictate sites that he felt should be considered national monuments. Otherwise the Secretary of the Interior was granted the authority to relinquish private lands for to the use of government purposes. Lands were relinquished for archeological purposes, in order to learn more about prehistoric Native Americans that lived at those sites.

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9 Caroline M. Blanco, Sherry Hutt, and Ole Varmer, Heritage Resources Law: Protecting the Archeological and Cultural Environment (New York: John Wiley & Son, INC., 1999), 182.
Finally, it was considered a violation for anyone to “‘appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity’ on federally owned or controlled land without a permit [16 U.S.C. 431 (1994)].”\textsuperscript{10} The punishment of the time was “$500 and/ or imprisonment for up to 90 days….“ In 1987, the punishment was increased to “$5000 dollars and/ or incarceration of up to six months.”\textsuperscript{11} However, the Antiquities Act was considered constitutionally vague because it neglected to define terms such as “antiquities.”\textsuperscript{12} The Antiquities Act was soon followed by further legislation that would assist in the efforts to prevent the destruction of historical sites.

The National Historical Preservation Act of 1966 (NHPA) was one of implemented several decades after the Antiquities Act. The NHPA was held as “one of the most important pieces of legislation enacted to protect and preserve heritage resources….“ The fundamental premise of the law was to protect sites that are construed as historical landmarks. The statute states that “historical properties significant to the Nation’s heritage are being lost or substantially altered, of inadvertently, with increasing frequency…”\textsuperscript{13} Therefore, this act was intended to recognize federal, state, and local historical or prehistoric entities that supports heritage.

\textsuperscript{10} Caroline M. Blanco, Sherry Hutt and Ole Varmer, \textit{Heritage Resources Law: Protecting the Archeological and Cultural Environment} (New York: John Wiley & Son, INC., 1999), 182.
\textsuperscript{11} ibid, 183.
\textsuperscript{13} ibid, 32.
Historical heritage refers to buildings and historical sites, but also objects that shed light on archaeology and other cultures in American history.  

The intention of the NHPA was to work with Native Americans to further protect and preserve their history and culture. What the act succeeded in doing was controlling these sites and the resources found therein. The act gave the government the ultimate authority to control the contents that were discovered at these sites. The NHPA referred to it as “stewardship” rather than ownership over the resources. However, the NHPA never defined “stewardship” and the parameters that it entails.

Years after the NHPA, the American Indian Religious Freedom Act of 1978 (AIRFA) was implemented. The act was created to protect Native American First Amendment rights. According to the National Parks Service (NPS) which houses these pieces of legislation, it states, “it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians....” AIRFA permitted card-carrying Native Americans to use illegal substances such as peyote for religious ceremonies. This act also allowed Native Americans an opportunity to utilize traditional (historical) sites for religious ceremonies

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17 “Amendment I: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” Cornell University Law School, “Bill of Rights,” http://topics.law.cornell.edu/constitution/billofrights#amendmenti (accessed June 17, 2011).
of various types. AIRFA was the closest federal legislation to permit the use of historical sites for ceremonial purposes; however, repatriation of ceremonial objects was neglected within the legalese of this law.

Following AIRFA the United States passed the Archeological Resources Protection Act (ARPA) in 1979. The act was considered as the revival of the Antiquities Act. The Antiquities Act, at this point, was perceived as ineffective when preventing destruction of archeological sites from looters and vandals.\textsuperscript{18} Therefore, the United States established the ARPA to prevent individuals from:

“[selling], purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.”\textsuperscript{19}

The act serves to protect governmental land resources such as, National Parks, Wildlife Refuge, and National Forests.\textsuperscript{20} The Act includes Native American reservations as a part of these governmental protected lands.

ARPA was an established piece of legislation that provided an adjustment in the way Native American objects were protected. ARPA could arguably be considered the final building block in the attempt to protect and preserve tribal heritage with the collection and education of objects found at archeological sites. However, federal legislation failed to address many of the concerns regarding the ownership of Native American lands and objects, which led to action by state legislative bodies. As a result,

\textsuperscript{18} Marion P. Forsyth and Jennifer R. Richman, ed. Legal Perspectives on Cultural Resources (New York: AltaMira Press, 2004), 5.
\textsuperscript{19} Caroline M. Blanco, Sherry Hutt and Ole Varmer, Heritage Resources Law: Protecting the Archeological and Cultural Environment (New York: John Wiley & Son, INC., 1999), 191-2.
\textsuperscript{20} ibid, 190.
more than twenty states that have some type of repatriation policy. Many states
developed a system of repatriation in order to adjust what is considered a double
standard. “Double standard” is an applied term suggesting that Native Americans are
not treated with the same dignity or equality, even in death. Particular state legislation
was developed to address the specific needs to repatriation objects of particular cultural
value and human remains to their culturally-affiliated tribe.
Chapter 3

STATE LEGISLATION: THE CONTRIBUTING FACTOR

Particular state Legislation was developed to address the specific needs to repatriation objects and human remains to their culturally affiliated tribe. Some of these states include Kansas, Iowa, and Nebraska. These states have enacted some measure of protection towards tribal objects, human remains, and unmarked burial sites.

One of the earliest known pieces of state repatriation legislation was implemented by the State of Iowa in 1970s. The situation evolved when a construction worker by the name of John Pearson was assisting in developing Highway 34. Pearson, in the process of his daily duties, inadvertently discovered a cemetery that was dated to the “turn-of-the-century.” Apparently the construction worker notified the state archeologist to come in and evaluate the situation. The archeologist identified and removed twenty-six remains that had no tribal affiliation but in the process also inadvertently discovered a Native American woman and her child whose tribal affiliation was undetermined. The state archeologist took the 26 non-Native American remains and reburied them. However the remains of the mother and child were kept for further study.\(^{21}\) Pearson notified his wife, Maria Pearson, a Yankton Sioux, about the situation. She felt that this was discrimination or desecration against Native Americans. There was indeed a double standard set forth by the state when dealing with the disposition of human remains at this time. In the state of Iowa, Native Americans also protested the

Iowa State Historical Society (ISHS), for displaying Native American human remains. The outcry from the Native American community made such an impression that the ISHS removed their entire collection of human remains from exhibitions. By 1976, the State of Iowa established a piece of legislation, Code of Iowa, Chapter 263B, that protected human remains.\(^22\)

The Code of Iowa, Chapter 263B legislation included “prehistoric burial mounds and unmarked cemeteries and presumes ultimate reburial of ancient human remains.” According to the state, prehistoric remains are defined as any remains that are “more than 150 years old.” Unlike other state repatriation policies that developed afterward, Iowa’s repatriation policy only applied to human remains. The law neglected to address repatriation of associated funerary objects that were found with those human remains. Furthermore, the policy also neglects any consultation process with tribal communities that would initiate an inquire into the decedents of the human remains. The State of Iowa does, however, provide a new resting spot for those human remains in a state cemetery.\(^23\) Other states, like the State of Nebraska, had to confront repatriation like the State of Iowa.

The State of Nebraska, on the other hand, was forced to examine repatriation claims by the Pawnee Nation.\(^24\) The Pawnee Nation, an advocate of repatriation,


\(^{24}\) Roger C. Echo-Hawk and Walter R. Echo-Hawk, Battlefields and Burial Grounds: The Indian Struggle to Protect Ancestral Graves in the United States (Minneapolis: Lerner Publication Company, 1994), 60-1.
became the driving force for the State of Nebraska to establish repatriation legislation, LB 340. However, this particular conflict concerns the Pawnee Nation’s true territory which explains why Lawrence Goodfox, Jr., a Pawnee elder, sent a tribal delegation to Lincoln, Nebraska in 1988. The Pawnee Nation’s original territory stretched between Kansas and Nebraska. During the mid-1870s the Pawnee were relocated to Oklahoma to start anew. However, it was disclosed to the Pawnee Nation during their visit in 1988 that the Nebraska State Historical Society (NSHS) maintained at least a thousand Indian remains within their collection which concerned the Pawnee Indians. With this new information the Pawnee Indians strongly pursued this issue from an ethical and legal perspective. Walter Echo Hawk, a member and attorney for the Pawnee Nation, played a pivotal role during this dispute in Nebraska. In the situation of Nebraska, Echo Hawk was one of the primary attorneys advocating repatriation.

The Director of the NSHS, James Hanson, made the statement: “There is no proof that any skeleton we have is related to any one of the Native Americans who want them back.” Clearly, Hanson was suggesting that the human remains that the NSHS had are not affiliated to the Pawnee Nation. The Pawnee Nation pursued this matter adamantly. The NSHS tried to create a blockade in order to prevent the Pawnee Nation from pursuing this matter any further. In fact, the NSHS sued the Pawnee in order to prohibit the tribe from seeing their records. The ruling was unfavorable for the NSHS

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26 ibid, 41-3.  
27 ibid, 59.  
28 ibid, 68.  
29 ibid, 60.  
30 Ibid.
and the Pawnees eventually gained access to the NSHS records and found alarming
evidence. The NSHS records indicate that they had “no court orders sanctioning
exhumation, no permits by the Smithsonian Institution, and no Pawnee Tribal Council
Resolution authorizing the disentombment of Pawnee remains….” The NSHS broke the
federal mandates provided by the Antiquities Act of 1906 by failing to provide any
authorized permits to exhume human remains.31

The State of Nebraska dealt with the rigors of a legal battle but in the end was
able to come to a consensus with the Pawnee Nation and concluded with a state
repatriation policy, the “Unmarked Human Burial Sites and Skeletal Remains Protection
Act (LB 340).” This particular statue applied specifically to human remains and their
funerary objects. However, this statute permits “the scientific study and reinterment of
human skeletal remains and burial goods.”32 The LB 340 allows the NSHS to take over
jurisdiction after a human remain is cleared by the police. The NSHS is supposed to
determine tribal origin.

Human remains found within Nebraska that are Native American in origin are
given a very different set of guidelines in comparison to non-Native Americans. The
state statute states that “If the remains and goods are of Indian origin, the state’s
Commission on Indian Affairs is notified, as well as known relatives or any tribes
reasonably identified as affiliated with the decedent.” The affiliated tribe may reinter the
remains; however, it will come at their own personal expense.33 The significant work of

31 ibid, 60-1.
32 Nebraska Legislature, “Nebraska Revised Statue 12-1203,”
33 H. Marcus Price III, Disputing the Dead: U.S. Law on Aboriginal Remains and Grave Goods (Columbia:
University of Missouri Press, 1991), 84.
the Pawnee Nation had a profound affect on the repatriation procedures within the state of Nebraska. The Pawnee Nation’s proactive approach to repatriation was also a strong influence in the development in the State of Kansas’ repatriation policy.\textsuperscript{34}

The Pawnee Nation was aware of their ancient burial remain unearthed and displayed as a tourist attraction in Saline County, Kansas. The Saline County tourist attraction initially began by the inadvertent discovery of 169 Native American human remains in the 1930s. The human remains were determined to be of the Caddo Indians, potential ancestors of the Wichita, Pawnee, and the Arikara people.\textsuperscript{35} The landowner soon after the discovery sold the property to a local grocer who “proceeded to dig up and shellac the bones, construct a metal shed over the area, and charge tourists $3.50 each to view the burial.”\textsuperscript{36} Plate 1 shows the family preparing the human remains in order to display them as a tourist attraction. Plate 2 shows a group of tourists lining up outside the building waiting to enter to see the human remains. This site was a prized tourist attraction as grade school children, adults, students, teachers and anthropologists flocked to see this display of human remains.\textsuperscript{37}

By 1986, the Pawnee Nation tribal leaders were aware of the burial pit in Kansas.\textsuperscript{38} The Pawnee Nation in collaboration with the Wichita and the Arikara tribes worked together to close the burial site and protect the integrity of Indian graves sites in Kansas. The Kansas State Historical Society (KSHS) assisted the tribal communities

\textsuperscript{34} Roger C. Echo-Hawk and Walter R. Echo-Hawk, \textit{Battlefields and Burial Grounds: The Indian Struggle to Protect Ancestral Graves in the United States} (Minneapolis: Lerner Publication Company, 1994), 66-9.

\textsuperscript{35} ibid, 67.

\textsuperscript{36} ibid

\textsuperscript{37} ibid, 55.

\textsuperscript{38} ibid, 66.
in writing a piece of legislation. Their initial attempt for a state legislation was declined. The State of Kansas felt they should have some type of compensation for the closure of the tourist business.

In 1989 an alternate proposal the H.B. 2144 known as the Treaty of Smokey Hill was passed which forever closed this tourist attraction. The statute, H.B. 2144, is directed towards burial sites that are unmarked. Kansas statute is applied to both public and private property in order to prevent the disruption of “any unmarked burial site, possess

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human skeletal remains or goods interred with such remains.” In order to prevent another Saline County burial tourist attraction, the statute continued to enforce the law that no one without the state approval could “display human remains or associated artifacts from an unmarked burial site, engage in commerce with these articles, or discard any of these materials.”\textsuperscript{40} The Saline County burial pit for nearly 50 years displayed these prehistoric native remains as a tourist attraction, but in 1989 was closed by the state. The KSHS also returned scared objects recovered from the burial pit in order for the Pawnee Nation to be reburied with their ancestors. On April of 1990, the Pawnee Nation finally reburied their ancestors.

State policies allowed for a segment of objects to reverse in what Walter Echo Hawk labels as a one-way property transfer. However, particular state legislation set

the foundation for repatriation on the federal level. Segments of state policies are seen throughout the two pieces of federal legislation of the NMAI Act and NAGPRA with the repatriation of human remains and associated objects.
Chapter 4

THE BREAKDOWN OF THE NMAI ACT AND NAGPRA

The National Museum of the American Indian Act (NMAI) was established on November 28, 1989 when the 101st Congress made the NMAI public law. Congress perceived this act as a memorial for the tribal community and dubbed it the National Museum of the American Indian. The public law applied solely to the Smithsonian Institution and allowed it to absorb additional objects relevant to Native Americans. Congress passed the public law with the intent that the NMAI, Smithsonian, would operate within the guidelines of four major principles:

1. Advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life;
2. Collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest;
3. Provide for Native American research and study programs;
4. Provide for the means of carrying out paragraphs (1), (2), and (3) in the District of Columbia, the State of New York, and other appropriate locations.

Congress combined the unprecedented collection of the Heye Museum in New York as well as all government-owned objects related to Native Americans. This included the 4000 human remains in the Surgeon General's possession. In addition to the joining of collections, Congress also gave the Smithsonian an additional 14,000 Native American human remains that were either donated or discovered through archaeological excavations. The government believed that combining these collections together would have an unparalleled display of Native American objects.

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that would be used for research and exhibitions.\footnote{National Museum of the American Indian Act, Public Law 101-185, 101\textsuperscript{st} Cong., (November 28, 1989).}

Congress also recognized that many objects within this collection included human remains that were unlawfully acquired; therefore, the NMAI Act allowed for repatriation to take place. Between 1989 and 1996, the Smithsonian’s repatriation policy was limited to human remains and associated funerary objects. This policy was amended in 1996 to include funerary objects, sacred, and objects of cultural patrimony.\footnote{National Museum of the American Indian Act Amendments of 1996, Public Law 104-278, 104\textsuperscript{st} Cong., (October 9, 1996).} The NMAI Act’s new amendment mirrored the applicable objects repatriated within the public law known as NAGPRA.

The repatriation process of the NMAI consists of six steps: the informational request, formal request for a visit and collections review, consultation visit and collections review, formal repatriation request, repatriation research and reporting, deaccession and repatriation.\footnote{National Museum of the American Indian, “Repatriation,” Smithsonian Institute. http://americanindian.si.edu/subpage.cfm?subpage=collaboration&second=repatriation (accessed June 9, 2010).} Each of these steps is vital in the Smithsonian’s efforts to ensure that the objects in question are eligible for and repatriated according to federal mandates. The NMAI amendment in 1996 requires evidence to support or deny a repatriation claim.\footnote{National Museum of the American Indian Act Amendments of 1996, Public Law 104-278, 104\textsuperscript{st} Cong., (October 9, 1996).} The evidence found will help dictate whether “the Smithsonian Institution did not have the right of possession….”\footnote{ibid.} The Smithsonian Institution commonly utilizes historical records, oral history, and academia in generating an argument for whoever may have the right of possession over disputed objects.
Congress passed the Native American Grave Protection and Repatriation Act, NAGPRA, on October 15, 1990 under the bill H.R. 5237 in the 101st Congress on the 2nd Session. With the passing of NAGPRA, repatriation became an issue that affected all federally funded agencies including museums across the nation, except the Smithsonian Institution. This public law was established almost a year after the NMAI Act which was implemented for the same purpose; yet, it provided a more comprehensive or widespread approach to the lingering problem of repatriation.

NAGPRA was administered by the Department of Interior and houses a nationwide repatriation process/policy under the National Parks Service, NPS. NAGPRA was designed to provide tribal communities with an opportunity to reclaim particular pieces of their heritage that may have been unlawfully taken. In fact, human remains, funerary objects, sacred objects, patrimonial objects, and familial objects were applicable for repatriation under the mandates set forth by NAGPRA. With the new amendment established in 2010, the CUHR ruling, NAGPRA also applies to culturally unidentified human remains.

According to the NPS, NAGPRA’s repatriation process includes a three-step process. “The principle steps of the NAGPRA repatriation process include --Federal agencies and museums must identify cultural items in their collections that are subject to NAGPRA, and prepare inventories and summaries of the items.” After such time those agencies consult with the tribal communities based on their findings. The tribal

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communities at this time receive a notice from the Federal agencies that pertain to the items that may be repatriated based on cultural affiliation. However, this concept of a three-part process is a misconception within itself, because tribal communities and museums are reliable for more than is divulged.

The NPS has several procedures that are not listed as a function to the repatriation process. The NPS is dependent on the use of an inventory sheet to assist in locating objects that could be repatriated. The use of inventory sheets is an obligation that all federally funded agencies including museums must complete. According to the NPS these inventory sheets are published for public awareness and so all tribal communities are formally aware of what museums have within their collection. An example of inventory sheets, found in Appendix O, from the Milwaukee Public Museum, displays an object that is culturally affiliated to the Potawatomi Nation.

Consultation may be given to either the museum or the tribal community in order to provide further evidence for a successful repatriation. Based on the consultation and documentation, it may have an effect on the type of federal funding that is available. To alleviate the arduous process, NAGPRA provides a series of grants for both museums and Native American communities. These grants are intended to provide museums and Native Americans with the ability to obtain further evidence about the origin of objects regardless of whether it is pertaining to human remains, funerary, sacred, or patrimonial objects. The grant amounts may vary based on the purpose that the funds would be used for; yet, grants are provided for a multitude of reasons. As previously

stated, grants are offered for consultation, documentation, and for the actual repatriation itself. The sum of the grant could range from $5,000 to $90,000 depending on the project. NAGPRA offers one non-competitive grant for repatriation, the repatriation grant. This particular grant does not exceed $15,000 and is awarded each fiscal year. The repatriation grants are "project-based awards to defray costs associated with the packaging, transportation, contamination removal, reburial and/ or storage of NAGPRA related human remains and/or cultural items."\(^{52}\)

The repatriation process through NAGPRA is considered by some to be quite arduous. The process commences with the submitting of a repatriation claim. In order for a Native American or tribal community to submit a claim, they must be capable of proving that the object or human remain is eligible for repatriation. This tends to become the most problematic aspect of the entire process. Throughout the repatriation process, it is clear that the burden of evidence is on the tribal community rather than the museum.

NAGPRA was constructed to allow repatriation claims from anyone that has a direct affiliation with objects or human remains. Furthermore, claims can only be made by “federally recognized Native American tribes, Native Alaskan villages and corporations, and Native Hawaiian organizations….”\(^{53}\) The law is intended to create a constructive process to return objects to their rightful owners regardless if it is a tribal community or a lineal descendant. However, the challenge becomes proving that only one tribal community or lineal descendant has rightful ownership over an object. The

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following case study of the Potawatomi Collection at the Logan Museum of Anthropology is only one example that shows that more than one Potawatomi band may have rightful ownership over this collection. This case study shows that evidence is an essential aspect to the repatriation process to eliminate any dispute.
Chapter 5

WHO HAS PROPER OWNERSHIP: THE CASE STUDY OF THE LOGAN MUSEUM

In regards to any collection with objects that can be repatriated, evidence is vital to the process. The use of such evidence is intended to eliminate disputes over ownership; however, disputes still exist because of one major facet, lack of evidence. Evidence such as academia, personal accounts, maps, and other forms of historical records assist in the process to solidify traditional knowledge; in which, it helps to clarify ownership disputes for museums or any other federal agency held with the responsibility of stewardship over objects. However, it is seen that evidence cannot solely dictate ownership, as is seen in the example of the case study of the Logan Museum of Anthropology.

The Logan Museum of Anthropology at Beloit College, Wisconsin, was founded in 1893 and is devoted in educating students through hands on, interdisciplinary methodologies.\textsuperscript{54} The Logan Museum of Anthropology has an eclectic collection of artifacts from around the world; however, this collection also consists of an assortment of Native American human remains and Native American artifacts. Because the Logan Museum of Anthropology has a collection of Native American artifacts and human remains, they were obligated to comply with NAGPRA’s rules and regulations. The museum sent an inventory sheet to all federally recognized tribes regarding objects they had within their collection. The Potawatomi was amongst those federally recognized

tribes that received an inventory sheet. By law the Logan Museum of Anthropology sent their inventory sheets to every federally recognized Potawatomi band at that time which included Hannahville, Forest County, Prairie Band, Citizen Potawatomi Nation, Huron, Pokagon, and Walpole (Gun Lake), illustrated on Plate 5.

According to the Logan Museum of Anthropology, representatives from the Hannahville Potawatomi visited the museum on August 14, 1996 and deemed ten out of fifteen objects as sacred objects. Prior to the conclusion of their visit, the Hannahville representatives requested that the museum remove the ten objects from the rest of the museum’s collection and store the sacred objects together. The museum currently maintains these 10 objects in humidity controlled environment and removed from the rest collection. Out of respect for the Potawatomi Nation and in compliance with NAGPRA, the museum has sealed these artifacts. According to the Logan Museum’s website these ten objects are “viewable only by members of the Potawatomi nation.”

A few years after the initial visit by the Hannahville Potawatomi band, the Museum was visited once again by two members of the Forest County Potawatomi, Alyce and Bill Daniels. These two representatives from Forest County Potawatomi visited the museum on February 26, 2003. During their visit they examined five out of the ten objects initially deemed sacred. The museum records indicated that the Forest County representatives’ found object 30460 was not sacred; however, they kept it a part of the remaining bundle of sacred objects “out of respect for the Hannahville

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55 Nicolette Meister, email to the author, June 14, 2010 (accessed June 14, 2010).
The object currently under dispute, object 30460, is a leather belt with metal circular rings. Additional information pertaining object 30460 can be found in the Appendix N. The Forest County representatives reiterated that the museum should continue to care for the objects deemed sacred as the museum had. These same 10 culturally affiliated objects are still bundled and stored at the Logan Museum of Anthropology today. Currently, the Potawatomi Nation has shown no signs of continuing the repatriation process beyond its current state.

The case study of the Logan Museum of Anthropology provides some invaluable information to the underbelly of the repatriation process. This particular case study clearly displays how both bands have a basic commonality that allows them to make a repatriation claim. However, only one repatriation claim can be made. If a second repatriation claim is made for the same object, then neither group can complete the repatriation process until the matter is handled. Repatriation disputes have escalated to involve attorneys or even the Bureau of Indian Affairs (BIA), putting a strain on tribe-to-tribe relationships, especially if it is an inner-tribal conflict. Therefore, repatriation claims are not taken lightly and are handled with the upmost respect and discretion.

In the example of the Logan Museum of Anthropology, the Forest County representatives viewed object 30460 in a different cultural perspective compared to Hannahville. Further conflicts would have arisen if the Forest County representatives

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57 Nicolette Meister, email to the author, June 14, 2010 (accessed June 14, 2010).
58 Nicolette Meister, Collections Form (Beloit, WI: Logan Museum of Anthropology, 2003).
had notified the Logan Museum to remove object 30460 from the collection of sacred objects. In this case that scenario did not occur.

From time to time objects are mistakenly assigned to one tribe over another. Objects like ceremonial moccasins, drums, and medicine bundles, are generally are often mistaken. In the *Art of the American Indian Frontier* by David W. Penney displays an example of men’s leggings that are considered Ojibwa. However, the same piece is found within the text of *Native North American Art* as a piece from the Potawatomi tribe. This is only a singular example of the misidentification of an object. In this particular case study, the Logan Museum recognizes these objects are Potawatomi but the question still remains, “Who has rightful ownership?”

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Chapter 6

THE POTAWATOMI NATION: THE HISTORY AND IDEOLOGY OF THE TRIBE

The NMAI Act and NAGPRA rely on evidence in order to repatriate objects. However, evidence can be historical, oral, and anthropological evidence. These few methodologies are often applied to the repatriation process more so than other studies. This concept of applied methodology in order to repatriate object is not a set process. In fact, the method applied to repatriation appears to be on a base to base case study. The case study of the Logan Museum of Anthropology poses the question: “Who has rightful ownership?” In order to unravel this question, it is necessary to understand the history of the Potawatomi Nation.

The Potawatomi Nation refers to itself as “Nishnabec” which, in translation means the “true people”.\textsuperscript{61} The Potawatomi, Ojibwe, and Odawa together make up an ancient tribe known as the Anishinabe or the Nishnabec.\textsuperscript{62} According to Damon Mayrl, author of \textit{The Potawatomi of Wisconsin}, states “the Great Spirit gave each tribe a separate task.” Mayrl describes how the Ojibwe are responsible for the faith, Odawa for the trade, and the Potawatomi for the sacred fire. The name Potawatomi means “‘fire keepers.”\textsuperscript{63}

\begin{footnotesize}
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\item\textsuperscript{63} Damon Mayrl, \textit{The Potawatomi of Wisconsin}, (New York: Rosen Publishing Group, Inc., 2003), 5.
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The Nishnabec originally settled along the St. Lawrence River near the Atlantic Ocean approximately one thousand years ago. Over time they migrated towards the Great Lakes and by the 1500s they divided into 3 tribes and was referred to as “Three Fires Confederacy.”

By the year 1634, the Potawatomi encountered the first European, Jean Nicolet. Nicolet, a French explorer, landed on the shores of present day Green Bay, Wisconsin near Red Banks. Nicolet stated, “There was yet one tribe near the Winnebagoes to be visited- the Pottawattamies. They were located upon the islands at the mouth of Green Bay, and upon the main land to the Southward, along the western shores of Lake Michigan.” During the explosion of fur trading industry the Potawatomi maintained lands that included parts of Wisconsin, Illinois, Indiana, Michigan, and into Ohio. According to the Citizen Potawatomi Nation during the explosion of fur trading industry the Potawatomi Nation occupied over 5 million acres. By the early 1800s, the United States had undergone significant changes and settlers had slowly pursued westerly expansion. Plate 3 illustrates the Westward expansion of the Great Lakes region prior to the Indian Removal Act. John Cary, an engraver, in 1805 indicated the territory of major tribes such as the Potawatomi, Odawa, Winnebago, and the

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65 Ibid.
66 Ibid.
Plate 3. “A New Map of Part of the United States of North America, 1805,” shows the Western Territory along with tribal territories of the Pootewatomis, Ootawas, Winebagos, and Mononomis. Courtesy of the Clark County Historical Library

Menominee. This map is a testimony to the Potawatomi’s territory and solidifies the personal accounts of Jean Nicolet and oral history of the Potawatomi Nation.

Everything changed when the United States enforced the Indian Removal Act.\textsuperscript{70}

The Indian Removal Act forced many tribes to give up their homes, their lands, and their heritage and begin again. The Potawatomi was amongst those tribes that were forced to relocate. The Potawatomi signed the 1833 Chicago Treaty which allowed the United States to seized over 5 million acres of Potawatomi land and removed approximately

\textsuperscript{70} James A. Clifton, \textit{The Potawatomi} (New York: Chelsea House Publishers, 1987), 64.
850 Potawatomi, known as the Mission Band, from their lands.\textsuperscript{71} Many Potawatomi Indians fled to neighboring Potawatomi grounds along the United States, Canadian border. But in 1838, the Mission Band Potawatomi were primarily located in the Wabash River Valley in Indiana and were then relocated to a small reservation in Kansas called Osawatomie.\textsuperscript{72} “From Indiana, the Mission Band was forced to march across four states (over 660 miles) to a new reserve in Kansas.”\textsuperscript{73} Plate 4 displays Potawatomi’s route.\textsuperscript{74} Records indicate that “more than 40 [Potawatomi Indians] died along the way” and given the title Trail of Death.\textsuperscript{75}

The Mission Band had an extremely difficult time adjusting to their new home. It is clear that the Mission Band wanted to make a new home of their choosing: Oklahoma. Records indicate that “In 1867, Mission Potawatomi members signed a treaty selling their Kansas lands in order to purchase lands in Indian Territory (Oklahoma) with the proceeds.”\textsuperscript{76} Soon thereafter, the Mission Band was recognized as the Citizen Potawatomi Nation (CPN).

The Potawatomi Nation as a whole stretches from Oklahoma into sections of Canada. Plate 5 indicates the current reserves located inside the United States. However, this overview of the Potawatomi Nation shares a commonality between the bands, and their heritage. However, today each band has their own perspective to life, culture and sacredness of objects. This becomes evident with this current debate with the Logan Museum of Anthropology’s Potawatomi collection.

The Logan Museum’s collection of Potawatomi objects was only viewed by two bands on two separate occasions. From the Logan Museum’s records, it has been established that these two bands do not view sacred objects the same. Because of this conundrum, it is necessary to understand other Potawatomi bands’ ideologies to sacred

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objects. An interview with the staff at the CPN’s Cultural Heritage Center and Museum helped explain their ideology to sacred objects. A series of questions were asked pertaining objects of sacredness, method of display, and cultural sensitivity. Stacy Coon, Collections Manager with the Citizen Potawatomi Nation (CPN) stated that, “tribal law does not exist” related to art objects and methods of displaying them. However, Coon stated that it is “general knowledge” when it came to method of displaying an object that could be “sensitive.” Coon used the example of a pipe as an object of cultural sensitivity. The stem of the pipe must be disconnected from its head in order for it to be appropriate displayed in public.  

The CPN’s Cultural Center never displays cultural sensitivity objects, but questions do arise from time to time. When these situations occur the Potawatomi elders are generally asked about the objects. When asked to define “culturally sensitive” the CPN’s staff explained that culturally sensitive objects apply to objects used for ceremonial purposes. In fact, culturally sensitive objects would only be seen by those who use the object. Blake Norton, the Archivist for the Potawatomi Cultural Center, stated that “many elders are extremely superstitious when concerning sacred objects.” They feel that many sacred objects still maintain power that was intended for a particular ceremony, or individual. The elders, according to Norton, would not dare look at them even in a book. Coon stated that “elders would not look at these sacred

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Plate 5: Map of current day Potawatomi reservations

pieces because they believed it would have a negative connotation on their lives.

Because the CPN’s Cultural Center and Museum maintains similar values to sacred objects, it was apparent that there are extreme dos and don’ts pertaining to sacred objects. The Cultural Center stressed how they never display sacred objects. Secondly, they do not photograph, handle, or view any object that is deemed sacred unless they have been given consent by the owner or the tribal council to do so.

However, if these standards set by the CPN are similar to those of other Potawatomi bands then cultural sensitivity objects would never be photographed. In fact, if these standards are closely enforced then any tribal council would refuse to allow a sacred object to be photographed and published in a book. According to the Logan Museum of Anthropology’s records object 30941 a/b, a pipe and stem, was illustrated in

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80 Ibid.
the *Library of Native Americans: Potawatomi of Wisconsin* in 2002. Their records also show that this publication was permitted with the Potawatomi’s approval. Additional information pertaining object 30941 a/b, found in Appendix M.

Between the Logan Museum’s Potawatomi collection dispute between objects and the defining of sacred objects, contradictions arise. This particular contradiction could be explained by the makeup of the Potawatomi Nation governing body. There is not an overall govern body. The Potawatomi Nation is made up of several bands and each band has their own tribal council. Therefore, it is not clear by whom gives permission to allow sacred objects such as object 30941 a/b to be photographed and published. Unfortunately, the Logan Museum’s records do not indicate which band, or individual gave this permission.

In regards to the Logan Museum’s multiple visits, the Potawatomi Nation sent trusted elders that knew their heritage, and the objects that are deemed sacred based on their personal knowledge. These individuals were aware of the possible negative connotation that this could have on their lives, and went for the betterment of the tribe. These visits show that the Potawatomi Nation is aware of these objects, their different perspectives to sacred and non sacred objects, and have not visited the Logan Museum since. Only speculation can suggest why the Potawatomi Nation has not repatriated these objects. One may suggest that the Potawatomi may have a lack of storage to facilitate these objects, but others may view their efforts as a lack of interest of these objects. The Potawatomi Nation shows a disparaging effort to repatriate objects. According to the Citizen Potawatomi Nation records, “one object has been repatriated” however the CPN does not indicate which object was repatriated and where it was
repatriated to.\textsuperscript{81} Despite the lack of record keeping, this suggests that the Potawatomi and other bands outside Forest County and Hannahville have shown some interest in repatriation in the last 20 years. However, it portrays the current desire that the Potawatomi has to become proactive in the repatriation process.

\textsuperscript{81} Stacy Coon, Blake Norton, Karen Philips, interview by author, Shawnee, OK, June 7, 2010.
Chapter 7

MUSEUMS: ETHICS, REPRODUCTIONS, AND REPATRIATION

Repatriation has a definitive impact on a museum from a multitude of perspectives. From the commencement of the NMAI Act and NAGPRA, museums were aware that legislation would disrupt their daily operations. From the implementation of these laws many museums had a misrepresentation of their intent. Due to museums’ initial misconception of these laws, they saw repatriation as a legal method that allowed tribal communities to enter and remove their entire Native American collection. Despite their concerns, repatriation is slowly progressing along with an undetermined end in sight. Because of the strife between museums and tribal communities throughout the development and implementation of these laws, as previously discussed in Chapters 2 and 3, there are continuous efforts to improve relationships between tribal communities, museums, and federal agencies. The National NAGPRA Symposium is an example of the bridge building efforts being made by the NPS. However, due to the vernacular description of these federal laws, it is inevitable that questions would arise that make any relationship difficult.

Repatriation is an extremely difficult topic for any museum. Museums are intended to be a repository for these objects, cared and protected, and displayed to educate the public. Repatriation, however, does not necessarily mean that museums are obligated to return the object; yet, repatriation still places museums in a precarious position. The Logan Museum of Anthropology was placed in this precarious position with the Potawatomi Collection. This particular collection is not repatriated but it has
been deemed sacred. According to their records, “the Potawatomi Collection has been sealed off only to Potawatomi Indians.” This is a perfect example of the ethics that the Logan Museums maintains. Many museums follow the code of ethics of particular accreditations such as, the AAM (American Association of Museums). These ethics provide museums with the guidelines to follow when questionable events occur. Through these ethics, it is imperative that museums follow “the letter to the law.”

Due to the sensitive nature that particular objects have, museums often turn to replicas to preserve collections and to continue to exhibit and educate the public. The AAM suggests that this is an appropriate method to pursue. The AAM states that museum “missions include collecting and preserving, as well as exhibiting and educating with materials not only owned but also borrowed and fabricated for these ends.” However, museums also utilize reproductions to preserve the integrity of their collection. Often, a museum has an object that may be extremely brittle and not capable of bearing the rigorous conditions of being on display. This may present an opportunity for the museum to display a reproduction in place of the true piece. Museums must constantly think about the integrity of the collection as well as the safety of their patrons. However, the Logan Museum of Anthropology chose not to utilize replicas in place of the sacred objects. The integrity of the museum’s name is another facet that must be considered when sacred objects like the ones found at the Logan Museum of Anthropology are questioned.

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Nicolet Meister, Curator of Collection for the Logan Museum of Anthropology, expressed how particular pieces found within the Logan Museum had tested positive for pesticides. Many older collections collected in the late 19th or 20th century in museums have been treated with chemicals that may be harmful to people. Museums used pesticides to eliminate insect infestation. The use of these chemicals could be toxic for patrons and museum staff alike. Therefore, in order to protect other objects, people, and especially the integrity of the museum, replicas are used. Meister, however, was uncertain whether pesticides had been used on the Potawatomi Collection.

The Logan Museum of Anthropology represents a museum that is concerned for its collection and their constituents. Meister discussed the consequences of contaminated objects specifically regalia, a very real example, and what could happen if a contaminated object was repatriated. "If the regalia was ever repatriated back to its tribal affiliation then it would become re-circulated and someone would end up wearing an extremely poisonous piece of regalia." The National Park Service provides grant opportunity for museums and Native Americans, as previously discussed in Chapter 4, to decontaminate objects. The only way a tribal community or museum can determine that an object is contaminated is through testing. Without further funds no one can do anything to determine the condition of an object. To further complicate the matter, grant opportunities are extremely competitive and very limited. The Logan Museum thrives to work towards building this bridge between museums and tribal communities by extreme preventative measures. Therefore, the Logan Museum informs tribal representatives about potential contamination upon consultation.

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84 Nicolette Meister, interview by author, August 24, 2010.
When NAGPRA was implemented museums were obligated to identify sacred objects. Another issue concerning the identification of objects was that museums are often unaware of the sensitivity that particular objects have. Dawn Scher Thomae, Anthropology Collections Manager of the Milwaukee Public Museum, explained that when NAGPRA was initially passed she was not aware of the types of objects applicable to the repatriation process. When asked by the National Parks Service in a survey, how many objects that could be affiliated with the repatriation process at the Milwaukee Public Museum, Scher Thomae left the question empty. She stated, “It is not my job to identify whether these objects are applicable to be repatriated.” The law only states that they (museums) are obligated to send an inventory sheet to those tribes that are federally recognized pertaining objects found within their collection. Scher Thomae discussed how their inventory sheet also included a small sketch to help eliminate objects that are not applicable to the repatriation process. Museums like the Logan Museum of Anthropology and the Milwaukee Public Museum appear to have a commonality to their repatriation methods and both discussed how their museums follow “the letter of the law.”

Museums like the Milwaukee Public Museum and the Logan Museum of Anthropology are state funded agencies; therefore, it is vital that they follow the rules, regulations, and ethics set forth as mandated. These particular museums do not have the luxury to decide what to do based on their personal ethics or sympathy. They base their decisions on the evidence and obey both state and federal mandates. Through such process they remain objective, emotionally detached from the process, and
Museums work to assist tribal communities with repatriation; for instance, the Kansas State Historical Society. The KSHS worked to build a stronger bridge between museums and tribal communities. In other cases museums are working with tribal communities to make a stronger argument for repatriation based on religious reasons. Meister discussed in her interview how the Logan Museum has denied repatriation cases in order to better serve the tribal community.\textsuperscript{86} Denying a repatriation case serves both the museum and the tribal community. The denial shows that museums often need a stronger argument in order to solidify a repatriation claim. Therefore, the burden of evidence tends to fall the tribal communities. Otherwise this eliminates the unfathomable question of museums’ integrity and their willingness to give away objects.

Museums have been scrutinized by tribal communities as previously discussed in Chapter 3 with the Nebraska State Historical Society. However, museums are also scrutinized by other museums in the methods which objects are repatriated. Meister disclosed that the Logan Museum of Anthropology has dealt with another museum’s criticism of the way the museum handled a repatriation case.\textsuperscript{87} Meister stated that “It’s an institutional decision and what we decide as an institution has no impact on any other museum and it shouldn’t.” After which, Meister stated that “The very act of a museum making a repatriation can become political for the museum in relation to other museums.”\textsuperscript{88} It was evident that Meister was oblivious to this concept ever occurring.

\textsuperscript{85} Dawn Scher Thomae, interview by author, August 25, 2010.  
Nicolette Meister, interview by author, August 24, 2010.  
\textsuperscript{86} Nicolette Meister, interview by author, August 24, 2010.  
\textsuperscript{87} Ibid.  
\textsuperscript{88} Nicolette Meister, interview by author, August 24, 2010.
Even though the Logan Museum explained their rational to repatriate the object, the other museum maintained its criticism towards their efforts. Proving that the bridge building efforts continues to be a long an arduous process for the NPS.

The effort to build the bridge begins with mutual respect. The Milwaukee Public Museum (MPM) and the Logan Museum are two examples of museums that have made accommodations for tribal communities and their sacred objects. These two particular museums allow tribal communities to wrap objects that are deemed sacred with either red or white cloth, shown in Plate 6, and perform a small ceremony. The MPM’s storage facility has a small tote that contains sweet grass, sage and a small iron pot to burn the herbs so Native Americans could bless the objects deemed sacred. The MPM allows tribal communities to also bless human remains that are tribal affiliated and cover them with red or white cloth as well, shown in Plate 7. Plate 7 does show that not all human remains are covered. Many tribal representatives that come for the consultation process choose not to view the human remains. For those tribal representatives that choose to view the human remains, it is their prerogative whether to cover or not to cover those human remains that are tribal affiliated. The Logan Museums Potawatomi collection deemed sacred was wrapped in red cloth, including object 30460.

The government and museums are working with tribal communities to help them understand the construction of the law and the process they need to follow to repatriate objects. The Smithsonian provides the step by step explanation early in their repatriation process. The NPS held a National NAGPRA Symposium, “NAGPRA at 20,” which was intended to display the foundation and bridge that was made between tribal
Plate 6 Milwaukee Public Museum's human remains storage facility.

communities and museums. The Logan Museum has had a lot of success when handling repatriation claims. However, some of the Logan Museum's success is based on their willingness to assist tribal communities. The Logan Museum has also accompanied the Potawatomi Nation requests to only show this collection with individuals with permission from the Nation. This is the Logan Museum of Anthropology’s methodology of respecting the wishes of the Nation, even though this collection's fate is still undecided.

Debates still occur between tribal communities and museums but those debates are generally heard by the NPS NAGPRA review committee. The review committee is made up of seven individuals that are selected by the Secretary of the Interior. The Secretary chooses these individuals based on nominations by "Indian tribes, Native
Plate 7 Milwaukee Public Museum’s human remains storage facility.

Hawaiian organizations, traditional Native American religious leaders, national museum organizations, and scientific organizations. The intent of the review committee is to monitor the repatriation process. As a part of the repatriation process, the review committee oversees repatriation disputes. This committee tries to maintain an objective approach and resolves such matters on a case by case scenario. In fact, during the case of Teeyhittann Clan versus Alaska State Museum a committee member, Dr. Whorl President of Sealaska Heritage Institute, removed herself from the committee.

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temporarily based on a conflict of interest. It was the only way the panel could remain objective to the case.

These hearings are not apart of any legal court system; however, attorneys represent the museums and tribal communities. In the case of Teeyhittann Clan vs Alaska State Museum, Walter Echo-Hawk, a Pawnee Indian and attorney represented the Teeyhittann Clan of the Tlingit Nation to repatriate the Raven Clan hat. The Raven Clan hat is a sacred object to the Teeyhittann Clan: allowing them to have a voice during their great council meetings and respect from the other clans. Echo-Hawk made the argument that the hat was unlawfully given to the Alaska State Museum. However, the museum’s attorneys argued that hat was given to the museum and signed over lawfully by a member of the Teeyhittann Clan who had the right to speak on behalf of the clan. Echo-Hawk was capable of proving that the hat did not belong solely to the holder but to the Teeyhittann people. The appointed holder was supposed to properly inform the Teeyhittann Clan of this hat’s welfare so they could vote on the matter. Unfortunately, the museum could not prove that such event ever occurred; therefore, the review committee voted in favor of the Teeyhittann Clan. The outcome shows that the review committee was mindful of the bridge between museums and tribal communities. The review committee decided to use a duel lock system that ensures both the museum and clan could have access to the object, but with permission from the other party. The clan’s could only use for the hat was during sacred ceremonies. However, the museum wanted the object to remain in its care so they could constantly monitor it, and with permission use it for exhibits. Instead the review committee chose to use a neutral location so both the tribe and the museum could have access to the
It is very fortunate that the museum and the Teeyhittann Clan are close in proximity to one another so they could settle this matter in this style. If the museum was not in such close proximity then this matter may have been handled in a very different manner, with a very different result.

Again, a museum’s entire purpose is to preserve and protect the objects within its collection. However, in the process of preserving and protecting their collections, museums often question whether someone or a tribe has rightful ownership to an object. That is why the NPS has a review committee to help resolve such issues. But in the case of the Logan Museum of Anthropology, their Potawatomi collection appears to fall outside this general debate. Instead of tribal communities versus museums, it is a question of which Potawatomi band truly has more ownership than the others. Based on the unknown provenance the answer will never truly be determined. However, if repatriation does take place with this collection an agreement like the case of the Teeyhittann Clan could be seen; in which, it would allow all bands an opportunity to utilize the objects for ceremonial purposes.
Chapter 8

CONCLUSION

Since the implementation of the NMAI Act and NAGPRA, these legislative acts offer guidelines utilized by tribal communities, museums, and Federal agencies. However, conflicts and misconceptions are inevitable within the process due to misinterpretations and the lack of clarifications that these legislations offer. When the government allowed a diplomatic solution over the lingering debate on ownership, in turn, it allowed Native Americans to have a voice in the process. However, the conundrum remains, it is apparent that this “voice” has some authority within the repatriation process, but how much authority is still undetermined.

This voice and authority may give tribes some leniency toward repatriation. For example the case study of the Potawatomi Collection at the Logan Museum of Anthropology shows that the Potawatomi Nation may be taking advantage of the repatriation system. Since the Potawatomi Nation has not expressed any desire to repatriate these objects outside the identification of the objects that they could reclaim ownership of is, undisputed, one could come to such conclusion. Even though Native Americans are provided a voice does not suggest that all repatriation cases conclude with the repatriation of an object. The repatriation dispute of Teeyhittann Clan versus Alaska State Museum is a perfect example that shows how the NPS NAGPRA review committee respects the paperwork provided by the museum along with the oral history, and importance that the Raven hat has to the clan.
Time has shown that these two pieces of legislation are still in their adolescence. In fact, it has taken nearly a century to develop the legal perspective of these laws. Due to the lengthy developmental process that allowed tribal communities to opt for repatriation, it should be rational that they are skeptical of the repatriation process and the United States Government for a variety of reasons. As time has shown the evolution of these laws, time has been shown the maltreatment and deception that the United States Government has been towards Native Americans. Throughout history many Native Americans have signed treaties peacefully and forcefully but often for the betterment of the other party. Due to the deception, it has caused Native Americans to be skeptical of these legislative acts.

One general philosophy that was expressed by some Native Americans at the “NAGPRA at 20” conference was how these particular acts follow a colonial perspective. In fact, they are colonialist. The repatriation policy of the NMAI Act and NAGPRA were designed to dictate how tribal communities repatriate their objects. This perspective is evident through the development of a series of historic legislations including the NMAI Act and NAGPRA that created further animosity between tribal communities, museums, and federal agencies. Tribal communities like the Potawatomi Nation appear not to be proactive in the repatriation process and need to understand the steps to complete the process with the assistance of western disciplines. Yet, the use of western disciplines only drives the colonialist perspective much further. In turn, this creates false notions of the law, resulting in false statements that only further enrage the conflicts of the situation.
The “NAGPRA at 20” conference accomplished three fundamental aspects. This conference was intended to discuss where repatriation was, and where it is now. Secondly, it allowed the public to hear the concerns of Native Americans, museums, and Federal officials. Third, it provided the public with an understanding that repatriation is adapting to the needs of the tribal communities. This conference allowed the public to see that on many occasions tribal communities, museums, and federal agencies put aside their differences and worked together for the sake of repatriation, “building a bridge.” The conference was successful in presenting those few points. However, it was clear from this conference that many Native Americans are still troubled by the intent the repatriation process.

Many conflicts that derive from the tribal perspective concern ownership. Some believe that any and all objects that can be tied to their ancestral roots should come back to its true owners, the tribe. Others believe that this topic is a double-edged sword. Tribal communities also realize that museums and their personnel have the training to preserve and protect those object, along with opportunity to educate the public about their heritage. Yet, all have the realization that not all objects will ever be truly repatriated. But as long as object can be reclaimed then tribal communities will strive to reclaim them.

The case study of the Potawatomi Collection at the Logan Museum of Anthropology is astonishing for multiple reasons: Potawatomi history, the difference of perspectives towards sacred objects, and ownership over these objects. It is difficult to determine who has the appropriate ownership over these sacred objects. Speculation suggests that whenever repatriation does occur the Bureau of Indian Affairs will step in
and become the mediator between the bands. This will only occur if the Potawatomi bands have any dispute over these objects. However, the reality of this case study shows that one band can repatriate these objects without notification to the other bands. This case study proves that these bands have limited communication between one another. Due to the lack of communication between bands, one band could take it upon themselves to repatriate these objects without the notifying the other bands. If that occurs, the BIA may need to assist in settling this matter.

In the end, the government has provided tribal communities with an invaluable service with the NAGPRA and the NMAI Act. Through the development of these legislations, the government gave tribal communities a voice in the process along with an opportunity to repatriate objects. However, the Potawatomi Collection has shown that without proper communication between bands conflicts within the system will only continue to increase. Moreover, these conflicts emerge because people engage the repatriation process with a predetermined mindset of distaste for the process. Tribal communities are enraged with the legislation because it dictates how they are capable of reclaiming objects that was taken from them. Based on the evidence and the method that repatriation operates, the repatriation process follows a colonial perspective.

We may deliberate with the knowledge that the law has succeeded in providing tribal communities with an opportunity to repatriate ancestral objects. However, one must submit that without further awareness from an objective perspective these conflicts and misconceptions will only continue. With the awareness of the mandates set forth by the law and avoidance of personal perceptions, a bridge can be created between tribal communities, academia, and museums. Because of the diluted nature of these laws, it
is inevitable that personal perception and various interpretations will continue to thrive throughout the process. Over time these laws will become nothing more than another historic piece of legislation that will set the foundation for future endeavors.
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Hutt, Sherry, Marion Forsyth and David Tarler, eds. Presenting archaeology in court: legal strategies for protecting cultural resources. Lanham, MD: AltaMira Press, c2006.


Nicolette Meister, interview by author, August 24, 2010.
------. Collections Form (Beloit, WI: Logan Museum of Anthropology, 2003).


The White House, “Theodore Roosevelt,”


Ziibiwing Center of Anishinabe Culture and Lifeways, “Reburial Ceremony,”

APPENDICES
APPENDIX A

QUESTIONNAIRE

Are you familiar with repatriation process and issues?

What repatriation dispute do you recall the best and why?

What type of conflicts do you see museums/ Native Americans often have with repatriation?

After you filed your inventory sheets did you get surge of correspondence from tribal communities interested in repatriation?

What type of amendments would you like to see NAGPRA make?

Do you feel that Native Americans are taking advantage of NAGPRA in some ways? For example, just because an object is repatriated doesn't mean they have to actually reclaim them.

Do you find the new CUI rule assisting your efforts to repatriate human remains?

Have you encountered any departments/ museums that have neglected to fulfill the requirements set forth by NAGPRA?

Do you see Anthropologists, Historians, and even Art Historians as a helpful asset to the repatriation process?

Do you feel that NAGPRA fits a colonial ideology? In other words, in your experience during repatriation consultations are Western disciplines utilized more so than traditional Native American knowledge/ beliefs?

Do you feel that NAGPRA will ever be completed?
Re: Potawatomi
Friday, June 11, 2010 8:57 AM
From: "Bill Green" <greenb@beloit.edu>

Add sender to Contacts
To: "Michael J Ables" <mjables@wichita.edu>

Hello Michael:

Thanks for your message. I enjoyed chatting with you last week. Let me confirm your interests -- you would like us to send you a listing of all objects in our collection that are identified as Potawatomi, along with basic identification and location data as well as NAGPRA status. If this is correct, we will prepare the list and provide it to you in pdf format. Please let me know if I'm missing anything.

Best wishes,

Bill Green

--
William Green, Ph.D., RPA
James E. Lockwood, Jr. Director, Logan Museum of Anthropology
Beloit College
Beloit, WI 53511 USA
http://www.beloit.edu/logan
608-363-2119
Fax 608-363-7144
Potawatomi Collection, Logan Museum  
Monday, June 14, 2010 3:17 PM  

From:  
"Nicolette Meister" <meistern@beloit.edu>  

Hi Michael,  

Bill Green forwarded your request for information about the Logan Museum's Potawatomi collection to my attention. Attached please find a spreadsheet containing basic catalogue information and notes taken directly from the catalogue cards. Thumb nail images are included for those objects that have been photographed. Many have not been photographed because they were bundled by Potawatomi representatives and have handling restrictions. One object on the list is missing (30657) and another wasn't photographed because it is a bundle of raw material (6775a) and not a high priority for digitization at this time.

The Logan Museum has hosted visits from representatives from the Potawatomi Nation from Hannahville, Michigan and Forest County, Wisconsin. Hannahville representatives visited August 14, 1996 and identified ten objects as sacred (1694.1-.2, 1707, 4465, 4466, 4467, 30069, 30241, 30460, and 30941). These objects were bundled, placed in an area reserved for the storage of culturally sensitive objects, and handling restrictions were posted on the storage contains. Alyce and Bill Daniels (Forest County Potawatomi) visited February 26, 2003 and examined five objects (1694.1-.2, 30069, 30460, and 30941). They did not believe 30460 was sacred, but suggested it remain bundled out of respect for the Hannahville Potawatomi request.

As Bill may have explained during his phone conversation with you, much of the content of our website was created in the late 1990s, before Bill and I worked at the Logan Museum. While it is true that some of our Potawatomi objects have been bundled (not "sealed") and have handling restrictions, this does not apply to "most" of our Potawatomi items. I hope you find this information helpful. Please let me know if you have any additional questions.

Regards,  
Nicolette Meister

Nicolette B. Meister
APPENDIX C

CORRESPONDENCE WITH NICOLETTE MIESTER (continued)

Curator of Collections & Adjunct Assistant Professor, Museum Studies
Beloit College, Logan Museum of Anthropology
700 College Street
Beloit, WI 53511
P: 608-363-2305
F: 608-363-7144
www.beloit.edu/logan
Dear Michael Ables,

I have spoken with several of my colleagues in Collections Management about your inquiry regarding medicine bundles. After some research, we found a record of one bundle that had been lent to the University of Iowa Museum of Art in 1988 for an exhibit entitled “Art of the Red Earth People: The Mesquakie of Iowa” (December 1988 – March 1989). This medicine bundle, catalog # E276343 (see below for instructions on accessing online catalog data) was approved for loan at the request of the Mesquakie Tribal Council. Initially we had been disinclined to lend the bundle for exhibit due to its fragility and sacred nature, but the Mesquakie Tribal Council, who worked closely with the University of Iowa Museum of Art on the exhibition, sent a letter signed by all the members of the Council specifically requesting that the bundle be lent for the exhibition. We eventually agreed to the loan and the bundle was displayed with a small cloth covering the opening to conceal the contents. If you are interested in accessing our online catalog go to: http://nhb-acsmith2.si.edu/anthroDBintro.html

Click on: Search the Anthropology Collections Database, then Detailed Search.

Enter the Full Catalog Number: E276343 and Click on Search. You should pull up a basic record with the catalog number underlined (E276343). Click on this underlined catalog number to get the detailed record. The last category of the detailed record is Multimedia, which shows an image of the catalog card and in some cases object images. Click on the images to enlarge them.

We could not find any other records for medicine bundles in our collection being displayed in the last 20-25 years, or any record of medicine bundles being “cut” or otherwise altered.

As you indicated you were working on a thesis on NAGPRA, you may want to contact Bill Billeck [billeckb@si.edu; (202)633-0865 of our Repatriation Office who would be glad to assist you.

Please let me know if I can be of further assistance with your research.

Sincerely,

Susan Crawford
Registrar
Department of Anthropology
Smithsonian Institution
Museum Support Center
4210 Silver Hill Rd.
Suitland, MD 20746
Phone: (301)238-1302
crawfords@si.edu
APPENDIX E

LOGAN MUSEUM RECORDS ON SACRED OBJECT: 1894

![Image of Logan Museum record on sacred object]

Deemed sacred and bundled by Potawatomi Nation (Hannahville, MI) 5/14/96. Should not be opened except by members of Potawatomi Nation.
APPENDIX F

LOGAN MUSEUM RECORDS ON SACRED OBJECT: 1707

Deemed sacred and bundled by Potawatomi Nation (Hannahville, MI) 8/14/96. Should not be opened except by members of Potawatomi Nation.
LOGAN MUSEUM OF ANTHROPOLOGY
Beloit, Wisconsin

Name: Mountain Lion paw (tattooing?) kit

People: Potawatomi

Locality: Wisconsin

Country: U.S.A.


Remarks: "Belonged to Num-Key-Wa-Ness, Forest Potawatomi medicine woman.
Fur on paw in good condition. Paw filled with


Deemed sacred and bundled by Potawatomi Nation (Hannahville, Mi) 6/14/96. Should not be opened except by member of Potawatomi Nation."
| Cat. No. | 4466 |
| Acc. No. | 197 |
| Acc. Date | 1971 |
| No. Spec. | 1 |
| Marks | |

**LOGAN MUSEUM OF ANTHROPOLOGY**

Beloit, Wisconsin

<table>
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<th>Name</th>
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</tr>
<tr>
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**Remarks**
Mink skin in good condition, small portion of the tail missing. Paws are covered with two pieces of wool, tan and red. Top layer decorated with geometric beaded design in dark yellow, red, pink, white & dark blue; remnants of white beaded edging. Second piece of wool (red) trimmed with ribbon and small beads. Tail decorated with four pieces of wool. The 2 top pieces decorated with.

*Similar type and color of beads as top piece on paws. Remnants of ribbon and beaded edging. The 2 bottom pieces are of red wool with purple and green ribbon and white beaded edging. At bottom of tail - fringe of tubular glass beads strung on thong with 4 brass thimbles and brass cap. Also 2 strings of white beads with one red wool tassel. Medicine enclosed in the skin bag.*

Taken to Van Buren Elem. School as part of suitcase exhibit - 3/17/78.

**Tall 10” long, body 13” long.**

Deemed sacred and bundled by Potawatomi Nation (Hannahville, MI) 8/14/96. Should not be opened except by members of Potawatomi Nation.
LOGAN MUSEUM OF ANTHROPOLOGY
Beloit, Wisconsin

Name: Otter-skin Medicine Lodge Bag

People: Potawatomi - "Forest Potawatomi"

Locality: Collected in Forest Co., Wis. 1956

Country: U.S.A.

Collection: Collected by Robert J. Salzer and sold to

Remarks:

Complete otterskin in excellent condition.
Tubular & faceted glass beads attached under
back paws with buckskin thong with brass thimbles
attached at the end - 5 thimbles and 1 small
brass dome. Same type of beads and 6 thimbles
attached to end of tail. Underpart of tail com-
pletely covered with navy-blue wool cloth which
probably had an edging of white beads - just a

few attached. Remnants of red silk over this and decorated with
very small white beads in a spidery-floral designs. Centers of
the elements filled in with green silk and birchbark. Very little
of the birchbark remains as of this date (11.11.71).

Deemed sacred and bundled by Potawatomi Nation
(Hannahville, WI) 8/14/46. Should not be opened except by
members of Potawatomi Nation.

Length of tail 15", length of body of skin 30".
LOGAN MUSEUM RECORDS ON SACRED OBJECT: 30069

Name: Wooden bowl and buckskin beaded pouch with 9 dice.
People: Pottawatomie
Locality: 
Country: U.S.A.
Collection: Albert C. Heath

Remarks: Wooden game bowl patched with lead on one side. Not perfectly round - 11" x 10". There should be a buckskin pouch with 9 dice. (2.00) Buckskin pouch with fringe. Geometric designs beaded in center on each side in red and blue beading. Top of pouch curved, one side edged in triple row of red beads and other in double row of blue beads. Leather thong ties. 7 round bone dice, 1 bone dice in shape of turtle and other in carved figure of animal.

Skin: Poor condition. Bowl has many cracks in the bottom. Area near metal patch is pulling away and front of mend is missing. Diameter: 13.2cm
Faucet dice in good condition
Length 13.2cm
Width 9cm

Deemed sacred and bundled by Pottawatomie Nation (Hannahville, MI) 8/14/96. Should not be opened except by members of Pottawatomie Nation.
LOGAN MUSEUM RECORDS ON SACRED OBJECT: 30241

APPENDIX K

LOGAN MUSEUM, BELOIT, WISCONSIN

Name: Presentation tomahawk

People: Pottawatomi

Locality: Michigan

Country: U.S.A.

Collection: Albert G. Heath

Marks: Black wooden handle inlaid with lead, 23 1/4 long. Metal tomahawk blade 6 1/4" long, 2 1/2" at widest point. Buckskin thong at end and beaded pendant at blade end. Large glass beads in white, red and black. "From Hilledale Co. Michigan."

Cat. No.: 30241

Marks: [Handwritten notes]

Deemed sacred and bundled by Potawatomi Nation (Hannahville, MI) 8/14/96. Should not be opened except by members of Potawatomi Nation.

Length: 61.1 cm
Width: 22.8 cm

% Good Condition: [Handwritten notes]
**APPENDIX L**

LOGAN MUSEUM RECORDS ON SACRED OBJECT: 30941 a/b

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**Name:** Red catlinite pipe & decorated wooden stem.

**People:** Pottawatomie

**Locality:**

**Country:** U.S.A.

**Collection:** Albert Green Heath

**Remarks:** T-shaped red catlinite pipe bowl, inlaid with lead. Lead design forming two arrows, one on each side of bowl and five circles of lead around end in which stem is insert. End of bowl tapers into a point. Pipe 4½” x 2 7/8”. Flat wooden stem with engraved designs. Near center of stem are two oblong carved out areas decorated with long strip of beadwork in geometric designs in mustard, green, blue and red on white background. This woven strip of beadwork is 7/8” wide, approximately 22” long. Also, in this carved out place in stem is braided wool yarn in red and blue with blue balls of yarn/End of braided strips. One ball has yellow ribbon fastened to it and the other ball has red ribbon fastened to it. There is also a "grizzly bear" clew hanging from stem from a beaded buckskin thong. Stem is 22”, 2” wide and ¼” thick. “Purchased from Simon Kequodos”

**Shin - Pipe bowl is in fair condition. Bowl is cracked by silver wire.**

- **Length:** 12.2 cm
- **Width:** 7.8 cm

**Shin in good condition.**

- **Length:** 8.0 cm
- **Width:** 6.8 cm

**6.50**

Deemed sacred and bundled by Potawatomi Nation (Hannesville, MI) 8/14/96. Should not be opened except by members of Potawatomi Nation.
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**Logan Museum of Anthropology**
Beloit, Wisconsin 53511

**Collection**
Albert Ewen, Heath Collection, purchased from Simon Kangeruds.

**Remarks:** T-shaped red catlinite pipe bowl inlaid with lead and design forming two arrows, one on two sides of bowl and five circles of lead around and in which stem is inserted. End of bowl tapers to a point. Flat wooden stem with engraved designs, decorated with long strips of beadwork, wool yarn, ribbon, and animal claws hanging from the stem.

Deemed sacred and bundled by Potawatomi Nation, Hamlinville, IL on 8/16/96. Should not be opened except by members of the Potawatomi Nation.

## APPENDIX N

**LOGAN MUSEUM RECORDS ON SACRED OBJECT: 30460**

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**Notes:** C2:Ag5
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LOGAN MUSEUM RECORDS ON SACRED OBJECT: 30460 (continued)

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Pictures

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LOGAN MUSEUM RECORDS ON SACRED OBJECT:30460 (continued)

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<td>Handling</td>
<td></td>
<td>Do not unbundled.</td>
</tr>
</tbody>
</table>
APPENDIX M

MILWAUKEE PUBLIC MUSEUM INVENTORY SHEETS

Milwaukee Public Museum
NAGPRA INVENTORY SHEET

Catalog Number: 23418
Accession Number: 6140
Culture/tribe band/village: Potawatomi - Forest County
Object: BELT
Materials: Grass head, cotton thread; wool yarn, cotton cloth backing
Description of object: LOOMED GLASS BEADED BELT WITH WOOL YARN DANGLING TIES (RED+PURPLE) / BEADWORK
COLORS: WHITE-RED-PURPLE-GREEN
WHITE BACKGROUND
Measurements (in centimeters): L. 330 cm W. 15.5
Remarks: See attached photo.

Accession date: November 9, 1918

The name of source: Dr. S.A. Barrett Collected by: Same, 1917

The place where the object was acquired: Laona, Wisconsin

The object was: donated collected purchased other EXPEDITION

Photo Negative #: NPS# A-436-L (Please attach xerox, if possible)

Sources checked: √ Catalog card √ Catalog book √ Accession card

Documentation file Other

This form was completed on 9/19/97 by J. Chrubeschi

EXHIBIT 2E13
MILWAUKEE PUBLIC MUSEUM INVENTORY SHEETS (continued)