



H47 The Native American Graves Protection and Repatriation Act's (NAGPRA's) Broader Impact: Assessing NAGPRA Implementation Within the Medicolegal System

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Learning Overview: The goal of this presentation is to explore the state of NAGPRA implementation within Medical Examiner/Coroner (ME/C) offices. In doing so, the objective of this research is to aid the medicolegal community in understanding how the law applies to a medicolegal context as well what protocols need to be implemented to be compliant with the law.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by informing attendees of their responsibility to acknowledge that NAGPRA is a federal law and therefore must be followed, as well as that compliance with NAGPRA indicates that ME/C offices, and those working within them, recognize the rights of Native Americans as well as their own role in ensuring those rights are not ignored or violated.

Passed in 1990, NAGPRA was the culmination of efforts by Native Americans, anthropologists, scientists, museum workers, and politicians to provide a legal process for tribes to claim the remains of their ancestors. Section 43 CFR § 10.9 of the law states that universities and museums must prepare an inventory of the items within their possession and return human remains at the request of a lineal descendent, Indian tribe, or Native Hawaiian organization by 1995. An examination of the qualifications that designate a museum for NAGPRA purposes reveals that ME/C offices fall under this definition and are therefore subject to NAGPRA's stipulations and consequences for noncompliance.

As NAGPRA implementation has not been explored or discussed in a medicolegal context to date, a national survey of medicolegal practitioners was distributed to collect data on practitioners' familiarity with the law as well as the presence of disposition protocol for non-forensically significant Native American remains. The survey responses totaled a range of 55–915 cases that are determined to consist of non-forensic, Native American remains each year (this accounts for only a percentage of the total ME/C system). However, the results also indicated that only 44.3% of the survey respondents are familiar with NAGPRA. Additionally, 34.1% of the survey respondents reported that they have an official protocol for the disposition of non-forensic, Native American remains. However, when asked to provide a description of that protocol, not a single response included NAGPRA-compliant disposition procedures. These results indicate that despite the national attention that NAGPRA has received, that law has not succeeded in widespread knowledge and acceptance among the medicolegal practitioners to whom it directly applies.

In order to provide medicolegal practitioners with the knowledge necessary to operate in a compliant manner, and to avoid the fines associated with noncompliance, this research discusses the sections and stipulations of the law that apply to the medicolegal community as well as what NAGPRA-compliant protocol for the disposition of non-forensic Native American remains should consist of. The benefit of the implementation of compliant protocol is two-fold, as it provides a legal mechanism for ME/C offices to transfer these remains out of their control or jurisdiction, avoiding becoming a permanent repository; and acknowledges both the human and civil rights of Native Americans to claim the remains of their ancestors as well as practitioners' roles in ensuring these rights are not violated or ignored.

NAGPRA, Implementation, ME/C Office