

## The Clarke and NAGPRA

We frequently receive questions about the Nealis Hall Native American Wing collections, including how the items come to the museum and if the museum possesses any stolen items in violation of NAGPRA. This document was written to address many of the more common questions we receive when it comes to the Clarke Museum and NAGPRA.

### **What is NAGPRA?**

NAGPRA (the Native American Grave Protection and Repatriation Act) was passed in 1990. It is legislation passed by Congress to combat grave looting and the possession of Native remains by Federally-funded institutions.

According to the National Park Service:

NAGPRA requires Federal agencies and institutions that receive Federal funds (including museums, universities, state agencies, and local governments) to repatriate or transfer Native American human remains and other cultural items to the appropriate parties by--

- Consulting with lineal descendants, Indian Tribes, and Native Hawaiian organizations on Native American human remains and other cultural items;
- Protecting and planning for Native American human remains and other cultural items that may be removed from Federal or tribal lands;
- Identifying and reporting all Native American human remains and other cultural items in inventories and summaries of holdings or collections; and
- Giving notice prior to repatriating or transferring human remains and other cultural items.

(From <https://www.nps.gov/subjects/nagpra/getting-started.htm>)

### **Do all Museums have to comply with NAGPRA?**

No. Only museums that receive federal funding are mandated to comply with NAGPRA.

### **Where does the Clarke Museum fit with this?**

The Clarke Museum is NAGPRA compliant, but not an official NAGPRA certified institution. This means that we have taken the initiative to identify possible NAGPRA items and repatriate them to the proper entities. However, there is an audit that needs to be done to officially become a NAGPRA compliant institution and receive federal funding that has not happened. We do not receive federal funding due to not having this audit completed. The audit is costly (about \$4000). In the early days of NAGPRA being instituted, there were grants available to help with funding audits, but the funding has since dried up.

If the Clarke were to raise the funds to get the audit and become NAGPRA compliant, some of our donors have asked that their collections be returned to them due to concerns that their collection would be turned over to their tribal museum, which has broken trust with their tribal members in the past. When it comes to becoming NAGPRA compliant, there are a number of concerns to address and

structural factors to consider. There are no easy answers when it comes to the preservation of cultural heritage- what is important is that the conversation continues with a focus on the needs of those whose cultural items are housed at the museum.

### **Why did the Clarke have NAGPRA related items?**

Cecile Clarke and some of her students were granted permission to conduct archaeological excavations on Tuluwat (Indian Island) to uncover Wiyot items from the 1860 massacre conducted by settlers on the bay. She also excavated at Big Lagoon, evidenced by her diaries we have in the museum archives. Items from these excavations were added to the museum collections and were maintained by the museum until the repatriation process started in the 90s and early 2000s. Cecile also received and purchased items from other amateur archaeologists that have since been identified as items taken from gravesites. The purchase of these items ceased when Cecile passed away in 1979. Now, items are only added to the collections through gifts from donors, or, in the case of the Hover Collection, fundraising and purchase and we have due diligence processes to ensure that items are not removed from graves.

### **How did the internal audit take place? Who was involved? What were the results?**

Items in the Nealis Hall Collections were sorted through by museum staff trained to identify possible funerary items, and we've hosted multiple site visits by local THPOs (Tribal Historic Preservation Officers) to look at records and nominate items for repatriation. Additionally, The Clarke has opened up our archives to tribes and researchers, which has resulted in the publication of Grave Matters, which discusses the historical treatment of Native remains locally and abroad. To date, the Clarke has repatriated hundreds of items to local tribes, including the Wiyot tribe. We continue to keep an eye out for possible items for repatriation and continue to work with the Tribes and THPOs.

### **How does the Museum know that the items that are donated are not stolen?**

When items are donated, we gather as much information that we can from the donor to include in the item files. It is a key part of museum ethics to have provenance for accepted donations, and if the provenance is questionable, we spend extra time trying to determine if we can or should accept the item.

It is true that throughout history in the world of museums, items have been 'given' or 'sold' due to pressing circumstances that were outside of the donor's control, including economic need, threats, and coercion. In all instances where this has been documented, we consider options for return. The legacy of museums as upholders of white supremacy is a legacy we cannot erase, but is one that we work on to dismantle day by day.

### **How are funerary items identified?**

Funerary items are typically identified due to noticeable and identifiable intentionally broken parts (usually down the center of the item) or burn marks.

Under NAGPRA, it is illegal to sell items determined to be funerary items.

## **Why aren't pre-contact items up for repatriation since they are from before contact?**

There is no legal mandate for return of pre-contact items unless it is via NAGPRA and is classified funerary or sacred. NAGPRA was written in a very specific way that covers the repatriation of sacred and funerary items rather than all pre-contact items (More information on how sacred and funerary items are defined can be found here: <https://www.nps.gov/archeology/tools/laws/nagpra.htm>)

It becomes complicated, however, when you look into items of Cultural Patrimony, which are also covered under NAGPRA. Cultural Patrimony items are defined as:

*"...ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual...(Sec. 2(3)(D))". The key provision in this definition is whether the property was of such central importance to the Tribe or group that it was owned communally. The potential vagueness of this term again produced comment by the Senate Committee:*

*The Committee intends this term to refer to only those items that have such great importance to an Indian Tribe or to the Native Hawaiian culture that they cannot be conveyed, appropriated or transferred by an individual member. Objects of Native American cultural patrimony would include items such as Zuni War Gods, the Wampum belts of the Iroquois, and other objects of a similar character and significance to the Indian Tribe as a whole (Senate 1990:7-8)."*

Quoted from: <https://www.nps.gov/archeology/tools/laws/nagpra.htm> . Italics added.

Some define items of Cultural Patrimony as anything ever made by a Native American person, while most recognize that there was an active cottage industry of making and selling things like baskets- which produced items not considered being of cultural patrimony since they were made for selling. Court cases regarding NAGPRA have not clarified the term, so it remains a grey area.

## **How does the Museum ensure the continued cultural and spiritual care of items in the collection?**

The museum pays special attention to the cultural and spiritual care of the collections entrusted to us. The Nealis Hall Committee, made up of representatives from local tribes and Museum Board Members is working on a policy to expand a previously established program where certain stable and donor-approved items could be loaned out for yearly dances held by local tribes. It's an important part of the lifecycle of a regalia object to be danced in ceremony. Additionally, we do have a local tribe representative come visit the collection monthly to sing and burn root, important tasks for the spiritual longevity of the baskets.

We also invite weavers to visit items in the collections for ideas while they do their weaving, and occasionally host weaver's work alongside basketry that helped them plan their baskets. The collection is here for the community and we strive to maintain as much openness as possible regarding access.

**Land Acknowledgement:**

The Clarke Historical Museum sits on Wiyot land in Eureka on the shores of Humboldt Bay, the traditional homeland of the Wiyot peoples of the Wiyot tribe, Blue Lake Rancheria, and Bear River Rancheria. The land that Eureka sits on is known in the Wiyot language as Jaroujiji, where you sit and rest, while Humboldt Bay is known as Wigi, after a story of how the bay became a saltwater bay. Wiyot people remain on these lands and practice ceremonies central to the maintenance of their traditions, culture, and landscape. They continue to shape the history and knowledge of this place and are actively working to restore the land stolen from them.

In response to this, the Clarke Museum pledges to continue working towards a more socially just museum through educating the public on the past, present, and future of the museum's Native collections and related programming, and working to return stolen items that are found in the museum's collections. We encourage the public to educate themselves about whose lands they live on and the cultural heritage of the people who have been forcibly removed. (see <https://native-land.ca/> )