

## Why GAO Did This Study

The National Museum of the American Indian Act of 1989 (NMAI Act), as amended in 1996, generally requires the Smithsonian Institution to inventory and identify the origins of its Indian and Native Hawaiian human remains and objects placed with them (funerary objects) and repatriate them to culturally affiliated Indian tribes upon request. According to the Smithsonian, two of its museums—the American Indian and the Natural History Museums—have items that are subject to the NMAI Act. The Native American Graves Protection and Repatriation Act (NAGPRA), enacted in 1990, includes similar requirements for federal agencies and museums. The National NAGPRA office, within the Department of the Interior's National Park Service, facilitates the governmentwide implementation of NAGPRA. Each act requires the establishment of a committee to monitor and review repatriation activities.

GAO's testimony is based on its July 2010 report on NAGPRA implementation ([GAO-10-768](#)) and its May 2011 report on Smithsonian repatriation ([GAO-11-515](#)). The testimony focuses on the extent to which key federal agencies have complied with NAGPRA's requirements and the extent to which the Smithsonian has fulfilled its repatriation requirements.

The relevant agencies agreed with the recommendations in both reports and GAO is making no new recommendations at this time.

View [GAO-11-755T](#) or key components. For more information, contact Anu K. Mittal at (202) 512-3841 or [mittala@gao.gov](mailto:mittala@gao.gov).

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## INDIAN ISSUES

### Key Federal Agencies' and the Smithsonian Institution's Efforts to Identify and Repatriate Indian Human Remains and Objects

#### What GAO Found

GAO found that almost 20 years after NAGPRA was enacted, eight key federal agencies with significant historical collections—Interior's Bureau of Indian Affairs (BIA), Bureau of Land Management, Bureau of Reclamation, U.S. Fish and Wildlife Service and National Park Service; Agriculture's U.S. Forest Service; the U.S. Army Corps of Engineers; and the Tennessee Valley Authority—have not fully complied with the requirements of the act. All of the agencies acknowledged that they still have additional work to do and some have not fully complied with NAGPRA's requirement to publish notices of inventory completion for all of their culturally affiliated human remains and associated funerary objects in the *Federal Register*. In addition, GAO found two areas of concern with the National NAGPRA office's activities. First, National NAGPRA had developed a list of Indian tribes for the purposes of carrying out NAGPRA that was inconsistent with BIA's official list of federally recognized tribes and an Interior legal opinion. Second, National NAGPRA did not always screen nominations for NAGPRA Review Committee positions properly. GAO found that repatriations were generally not tracked or reported governmentwide. However, based on GAO's compilation of federal agencies' repatriation data, through September 30, 2009, federal agencies had repatriated 55 percent of the human remains and 68 percent of the associated funerary objects that had been published in notices of inventory completion.

With regard to the repatriation activities of the Smithsonian, GAO found that since the NMAI Act was enacted more than 21 years ago, the Smithsonian has offered to repatriate about 5,000 human remains, which account for approximately one-third of the total estimated human remains in its collections. GAO found that the Smithsonian has adopted a lengthy and resource-intensive inventory and identification process, which may account for the slow progress of repatriation at the museums. In some cases, through this process, the Smithsonian did not offer to repatriate human remains and objects because it determined that they could not be culturally affiliated with a tribe. GAO also found that the Smithsonian established a Repatriation Review Committee to monitor and review the repatriation activities of the Natural History Museum but not those of the American Indian Museum. Although the Smithsonian believes Congress intended to limit the committee's jurisdiction to the Natural History Museum, the statutory language and its legislative history do not support that view. GAO also found that neither the Smithsonian nor the review committee had provided regular information to Congress on the repatriation progress at the Smithsonian, and the Smithsonian had no independent administrative appeals process by which tribes could challenge a repatriation decision in the event of a dispute. Through December 31, 2010, the Smithsonian estimated that, of the items it had offered for repatriation, about three-quarters of the Indian human remains (4,330 out of 5,980) and about half of the funerary objects (99,550 out of 212,220) have been repatriated. In addition, the Smithsonian had not offered to repatriate approximately 340 human remains and 310 funerary objects it could not culturally affiliate, and it does not have a policy on the disposition of these items.