

Spirits of Place: The Native American Graves Protection and Repatriation Act and Its Legacy

Cassandra: My name is Cassandra J. Atencio. I am the deputy tribal historic preservation officer in the Cultural Preservation Department, with the Southern Ute Indian Tribe located on the Southern Ute Indian Reservation here in Ignacio, Colorado.

Cassandra: When you put somebody in the ground, you expect them to stay there because you made prayers or did something over them, and that meant something so they could go somewhere else. When you uncover that, you're disturbing them, and now you're bringing them back. Now you're making them tied to this to this spot.

Anton Treuer: I'm Anton Treuer, professor of Ojibwe.

Anton Treuer: You know, I would say most Americans know their parents and grandparents and know the names of their great grandparents, and beyond that, probably don't know their names or even where they're buried... For me, my relatives have been buried in the same place longer than America has been a country... And so the connection to place, and to ancestral lines, it just feels a little different for me.

Garrett Briggs: MáykhMaykh, n̄n̄ay n̄ía Garrett Briggs, n̄é Kapuuta, Mouache, m̄ərəkáchi, nú Tribal Historic Preservation Officer p̄íinu núuch̄i. Hello, my name is Garrett Briggs. I'm a descendant of the Kaputa and the Mouache Band of Southern Ute, as well as Irish and Scottish. I am the tribal historic preservation officer for the Southern Ute Indian tribe.

Garrett Briggs: When we put away our loved ones, it didn't mean that we didn't care for them because we wouldn't go back and visit their grave site, it just wasn't in our tradition. Now that is

done by tribal members because of Catholicism, Christianity, you know, you go back and you leave a wreath or flowers for your loved one. But traditionally we didn't do that, because that ground was sacred, hallowed ground. And if you went back there, sometimes things can happen to you that we're not, that you didn't intend. So we put them away and let them lay.

Cassandra Atencio: For us, it's once you let them go, you gotta let 'em go. You know, and you mourn them for a different time and then you gotta let them move on. But if you uncover something and you uncover that person, then all of a sudden you're making them tied back here again to their physical self because you've interrupted them.

Anton Treuer: I mean, of course, if somebody is messing with grandma's grave, that's disrespect, but it is more than that. It's you're not human, you are an object. You know, you're dehumanized by the structure and apparatus that says you don't get to make the decisions over your own bodies.

Cassandra Atencio: It's kind of sacrilegious in a way that you're incomplete, for Ute people or my family, maybe. When you do that to someone, it's like you're casting your, you're carrying them apart and you're carrying apart their spirit so that way they can never be whole in order to go on to the next place that they have to be at.

Anton Treuer: There's still so many hundreds of thousands of Native skeletons still held and owned by museums and private collections and things like that, and so many different funerary and cultural items. It's kind of maddening, you know? It's part of the colonial enterprise that, you know, even human bodies get relegated to complete objectification as objects.

[Theme Post]

Noel: From History Colorado Studios, this is *Lost Highways: Dispatches from the Shadows of the Rocky Mountains*. I'm Noel Black.

Maria: And I'm María Maddox.

Noel: Maria is our assistant producer here at Lost Highways. She's originally from Chile and has her Ph.D. in Latin American Literature from CU Boulder. She wrote the script for "The Original BlackKklansman" episode earlier this season, and you'll hear more from her as we add voices to this podcast.

Noel: On this episode, we'll explore The Native American Graves Protection and Repatriation Act, or NAGPRA.

Noel: NAGPRA aims to return stolen and unearthed American Indian human remains and funerary artifacts to their rightful owners. These remains and objects, even when unearthed accidentally, have historically been put in museums or private collections as opposed to being returned to their Tribes. A short seventeen pages, it's impacted over 1,500 museums, a dozen federal agencies, and all of the nation's 574 federally recognized tribes since the legislation was signed into law by President George H.W. Bush on November 16, 1990.

Maria: Now, more than 30 years after its passage, we look back at the legislation – how it came to be, how it's helped advance justice for American Indians, and where it falls short.

Noel: Because History Colorado receives funding from federal agencies, we're also subject to NAGPRA laws. And at different times throughout history, the land that now makes up Colorado has been home to at least 48 different Tribes.

Noel: We'll also look at some of our own successes, failures, and lessons we've learned as a state institution about the spirit of NAGPRA, and how it's changed our relationships with our many tribal partners in ways that are often difficult, but important.

[Music]

Suzan Shown Harjo: For me, it goes back to 1965...

Noel: This is Suzan Shown Harjo speaking on *Red Hoop Talk* in 2020 at the 6th Annual NAGPRA conference commemorating 30 years of NAGPRA. It's organized by the Association of American Indian Affairs.

Suzan Shown Harjo: When my mother and I went to the Museum of the American Indian in New York, and she saw some things that... either were or resembled... things that her grandfather might have been buried with and in. And at the same time, I saw something that was very disturbing. A buckskin dress a Cheyenne girl would have worn and... there was a hole where her belly had been, a bullet hole and blood, and we left as quickly as we could, and on the way out saw it was a parade of horrors. We saw a shrunken head and a mummy and more shrunken heads and false face masks and all sorts of things that really shouldn't be there, and when we got outside, my mother was quite stern with me about getting busy and doing something about that, doing something about that aberration.

<https://www.youtube.com/watch?v=MzSy4NDceGE>

Glenys Ong Echevarri: The movement to build up to NAGPRA really comes from activists like Suzan Shown Harjo.

Noel: This is Glenys Ong Echevarri.

Glenys Ong Echevarri: I'm the NAGPRA liaison and Tribal Consultation Coordinator here at History Colorado. You know, many Native people grew up going to museums and seeing really, objects that were from their culture, sometimes objects they knew were from their grandparents' graves, but we have not made very much headway even though it's been thirty years since the law was passed in terms of museums nationwide returning Native American human remains and the other objects that are protected by NAGPRA.

Noel: NAGPRA aims to resolve the many problems caused by collecting Native American human remains, sacred objects, and cultural patrimony by agencies and institutions that receive Federal funds.

Chip Colwell: Objects that belong to a community as a whole, so that no one person has the right to sell. Example for us might, you know, most Americans might be the Statue of Liberty, right? It's a very big object. But it was gifted to all of us, right? It was a gift to the American people. No one has the right to sell that. And similarly, many Native cultures have these communally owned objects, that even if an individual tribal member tried to sell, they actually didn't have the legal or cultural right to do so.

Maria: This is Chip Colwell. He's an anthropologist and the author of *Plundered Skulls and Stolen Spirits: Inside the Fight to Reclaim Native America's Culture*.

Glenys Ong Echevarri: And then Chip has a statistic of if you, if you look at the number of remains that have been repatriated over the last thirty years, and you look at how many more ancestors there still are in museums, it is going to take a hundred, if not hundreds of years, to really complete all this work.

Noel: Federal agencies and museums have the obligation to consult with tribes who may want the return of what is rightfully theirs. But it doesn't always happen this way. Here's Glenys Echevarri talking about the University of California Berkeley and Harvard University.

Glenys Ong Echevarri: Those two universities are, their reputation is not great in NAGPRA communities. Those two universities are known for denying repatriation claims, dragging their feet, or sometimes, in certain cases, being completely disrespectful of the tribal representatives who have come forward and asked for their ancestors to be repatriated.

Noel: Both institutions have made steps toward NAGPRA compliance in recent years. But their treatment of ancestral remains has been disturbing, says Chip Colwell:

Chip Colwell: In one of the most infamous examples, you have the Phoebe Hearst Museum at the University of California, Berkeley, where they have somewhere around 10,000 skeletons underneath the college's swimming pool. So you have students swimming and frolicking, you know, in this pool. And below them is essentially this massive graveyard of Native American people.

Maria: NAGPRA only applies to Federally-funded institutions and to items found on federal lands. That means private collectors are not forced to comply. It also leaves tribes who are not federally recognized unable to claim their Ancestors.

Cassandra Atencio: Like I said for private collectors, you know, there's no... Unless you have somebody that wants to do the right thing. There isn't anything we can do about it.

Noel: Cassandra Atencio says one of the biggest problems with NAGPRA as it's written are the words: "Culturally Unidentifiable." These words let some institutions off the hook when the museum administrators or professors say that they can't identify which tribe the remains or sacred objects in their collections come from. And it allows them to hold onto those remains indefinitely without allowing the tribes themselves to make that determination.

Cassandra Atencio: That's what we have to get to, is talking to each other in actual, having a dialogue to communicate and sit across the table in order to collaborate and with other tribes, even, to consult to say "Who does this belong to?" And tribes, I think sometimes they would, university museums could pit you against each other if you have individual tribal consultations rather than a multi-tribal consultation. I would rather have a multi tribal consultation. Because within those, you get an executive session, where we tell anybody that's not tribal to leave so we

can hash it out ourselves. And I think that's more effective because we're in the room with each other. And when you separate us from each other, that's when you get clashes about who owns what. And it shouldn't be that way. And for tribes, it's about what's most respectful for our Ancestors And getting them back to where they belong and reinterred as soon as possible.

Maria: One of the new regulations proposed for NAGPRA would do away with this “cultural affiliation” loophole. Here’s Sheila Goff. She was the NAGPRA liaison and Curator of Archaeology at History Colorado from 2007 to 2019.

Sheila Goff: They're trying to remove that language from the law, and they are going to add in, if the regulations are passed, something called geographical affiliation, which will not allow the people, many of the people, many of the museums, who have individuals that they say they can't figure out who to affiliate with, it will require them to look at the various sources that are out there to be able to quote "geographically affiliate."

Noel: Goff says that there are many different ways to determine affiliation based on geography.

Sheila Goff: There are treaties. There are executive orders. There are, there's the Indian Claims Commission decisions. There are several sources out there that say who was in a place at a particular time. And granted it may be 10 different tribes over time in a particular place. But what does that tell you? That tells you that the ancestry you're trying to deal with, if you know where it came from, is probably related to one of those 10 tribes, as an example, and you can therefore affiliate.

Maria: But the most important thing is that institutions who've been resisting the NAGPRA for years will now have to put in the work.

Sheila Goff: That will be a huge change that will require some of these institutions that are holding onto remains, they'll have to repatriate. They'll have to consult. They'll have to do

research, and they'll have to repatriate. That's because the bulk of the remains that are in museums now are those classified as culturally unidentifiable.

Maria: Goff says that non-Native people can't fully understand the importance of repatriation and reburial.

Sheila Goff: I can sort of understand intellectually because I see it, but you know, deep in my heart, I can't understand exactly.

Noel: For Sheila Goff, it's a lack of willingness to believe Indigenous people, and to honor their cultural beliefs that may cause some museums to resist NAGPRA laws.

Sheila Goff: They do not understand the sensitivity of having remains, and think that they can, they would like to be able to do research because they think that there is a lot to be learned. And so they find ways under the law to hang on to them for a while.

Noel: Cassandra Atencio.

Cassandra Atencio: There's still people that think it's okay to utilize those ancestors as a science for their classes and in forensic science.

Maria: Dr. Kim TallBear is professor of Indigenous Studies at the University of Alberta. She's an enrolled Sisseton-Wahpeton Oyate and a descendant of the Cheyenne and Arapaho Tribes of Oklahoma.

Noel: In her article *Tell me a Story: Genomics vs. Indigenous Origin Narratives*, she argues that Western science is a tool of colonization that seeks to quote "appropriate Indigenous bodies - both dead and living - material culture artifacts, and Indigenous cultural narratives in the service of academic knowledge production." Here she is reading an excerpt from her article.

Kim TallBear: “Critics point out that such knowledge rarely serves Indigenous peoples’ interests and can actively harm them. In the 19th and early 20th centuries massacre sites and graves were plundered for body parts to be used in scientific investigations that inform today’s anthropological and biological research on Native Americans. Throughout the 20th century, Indigenous peoples around the world witnessed the too common practice of “helicopter research”—quick sampling without return of results or benefit to subjects. Indigenous DNA samples and data taken in earlier decades when ethics standards were lax continue to be used and cited in contemporary investigations, bringing those injustices into the 21st century.”

Maria: Non-indigenous archeologists and anthropologists often think of themselves as creators of so-called objective truths. But their knowledge and research comes with its own cultural biases. And scientists are often mired in the politics and ideologies of their time..

Cassandra Atencio: It was so they could prove they could utilize their method to say that we weren't human. You know, it wasn't about, oh, these guys were so. It's like if they were so interested in all of the outcome, how come back in their own motherland, digging up their own people? And how much do you need to know? What is it that you need to know?

Noel: And while it might be tempting to think of these issues from a global perspective—the display of Egyptian mummies or the study of European Bog Bodies – NAGPRA is specific to United States law, and the impacts of American colonialism on Indigenous cultures.

Maria: Glenys Ong Echevarri:

Glenys Ong Echevarri: There’s always scientific information to be gained in doing any kind of research. So would we learn a lot of scientific information if we cut someone open, a living person open? Yes. Would we do that? No, because it's not ethical. It's not something we as a culture are willing to do for non-native American remains or for outside of this context, you know,

we don't experiment on living people or on pregnant people or children because we understand that it's unethical. And for some reason, people don't think of the same thing of when it comes to, you know, doing this destructive DNA analysis on ancient human remains.

Maria: Regardless of ethical concerns, however, Glenys warns of oversimplifying the divide between Indigenous peoples and western scientists.

Glenys Ong Echevarri: There historically has been distrust between native communities and the scientific community. And increasingly so, that's not a very hard line to draw because, you know, Native people have always been scientists, so it's a little bit of a false dichotomy in that way.

Noel: In other words, the problem is not scientific research per se, but rather the lack of consent, lack of transparency, and the racism implied in doing research on bodies from cultures to which you don't belong.

Noel: Dr. April Laktonen Counciller is a member of the Sun'aq Tribe and the Executive Director of Alutiiq Museum in Kodiak, Alaska. Here she is on the podcast *Native America Calling* last September, talking about proposed changes in the NAGPRA law that will help close loopholes that have allowed some museums to avoid compliance.

April Laktonen Counciller: One of the new proposed rules relates to requiring museums to submit information to federal agencies if they have a federal holding. And this is something that was a problem for our tribes in the past, where a university had human remains, but they did not inform anybody. They did not inform the Department of Interior, which actually had the legal control of the remains under the Act. And so that's one of the reasons it took so long. Because they were not forthcoming with information. And even after the repatriation occurred, this University declined to hand over any information about what research was done to the

individuals...They said we could go ahead and look up the journal articles on an academic journal article website if we wanted to find out. And so, we still, even in this day and age, face that kind of treatment sometimes by organizations, and other times, it's not that way, other times they're very eager to try to do what is right under the law. But we still face some holdouts that never wanted NAGPRA in the first place. And they still want to have the right to do research on Native American remains without informing the community.

Maria: When asked why scientists keep using Indigenous bodies as research material, this is what she said:

April Laktonen Counciller: Well, I think it does go back to that era where people believed that Native Americans were a dying race and that urge to collect all sorts of material, including ancestral remains, so that for some reason in the future it might be useful to mankind, when really it was a form of racial prejudice where people did not consider Native Americans to be fully human and they did not consider our ancestors to be even connected to us today. Whereas from the Native perspective, in my community, those Ancestors are part of our family.

Maria: Chip Colwell.

Chip Colwell: Here you have a society, American society writ large, that is singularly responsible for the demise of Native American cultures. And yet, it's that very society that has tried to collect Native American history and culture through it, through its things... And so, if you look at the emergence of anthropology, anthropology itself, and sort of the most intensive period of collecting the late 1880s, early 1900s, arose precisely at the very moment Native American culture and populations were at their nadir.

[MUSIC/FIRST BREAK]

PROMO: To learn more about the stories you hear on *Lost Highways*, check out Colorado's eight museums around the state. Like the El Pueblo History Museum in Pueblo, which features a series of exhibits, events, and more, related to the borderlands of southern Colorado. From a place of meeting between Indigenous tribes, to a physical border between nations, from the boundary between mountains and plains to everyday convergences of cultural and ethnic borders, this exhibit illuminates the site's specific geopolitical border history as well as the region's historic and ongoing borders of cultures, ethnicities, landscapes, industries, religions, and identities.

[MUSIC]

Noel: The estimated pre-contact population of Indigenous people within what is now the United States has been widely debated, but was certainly in the millions. By the time of the 1890 U.S. census, however, there were only 250,000 Indigenous people left, leading some scholars to describe this time period as the "American Indian Holocaust." Chip Colwell says it wasn't until indigenous Americans had nearly been killed off that North American disciplines of anthropology were born and white scholars began to collect and document Native American history and culture.

Chip Colwell: And it's this so-called 'salvage ethnography' or this attempt to kind of document and soak up and collect these things before they're gone forever, arises precisely at the moment of the greatest possibility of demise. The term that anthropologists use to describe this sort of contradiction, that resonates most deeply with my thinking, is called 'Imperial nostalgia.' Imperial nostalgia is this idea that through imperialism, through this very concerted effort to go out and take over different parts of the world, to dominate different cultures, to use up their resources, you know, that is a deep psychological burden.

Maria: That burden, says Colwell, often becomes a kind of romantic regret.

Chip Colwell: There comes a moment where imperialists and people who inherit that history and culture have to confront it. They have to, because of the very thing that they've collected, the very people that they've encountered, are threatened or maybe even gone. So how do you deal with that as a society? Well, nostalgia is one way to do that, this kind of longing for a romantic idea of a people or a place or material culture. And so, we see this all over. We see this in, for example, in Britain and France. Many other imperial nations have this kind of nostalgia for the very cultures they've destroyed.

Noel: The most important institutions that emerged during this period include the Smithsonian in 1846, the Peabody Museum of Archaeology and Ethnology at Harvard in 1866, the New York American Museum of Natural History in 1869, and Chicago's Field Museum of Natural History in 1893.

Maria: These museums along with 'amateur archeologists' aggressively sought out Indigenous remains and objects. They were put on display in cases and dioramas alongside dinosaur fossils and specimens of flora and fauna for the public to consume. Anton Treuer sees these museums as warehouses of colonial nostalgia, mirrors of the whole process of colonization.

Anton Treuer: It's not so much that, you know, a love affair with the thing as much as, you know, the idea of destroying, owning, obliterating, objectifying. And categorizing, labeling, naming and making it part of the colonial apparatus.

Noel: In her book *Decolonizing Museums: Representing Native America and Tribal museums*, Amy Lonetree, an enrolled citizen of the Ho-Chunk Nation and an Associate Professor of History at the University of California, Santa Cruz, notes that the Smithsonian's collection grew dramatically from "550 items in 1860 to more than 13,000 in 1873."

Marial: Displaying Native American material culture in these modern museums contributed to the perception that Indigenous peoples as specimens rather than as human beings.

Noel: And when the general public saw their objects next to dinosaur bones and dodo birds, it amplified the perception that they were either permanently stuck in the past, or entirely extinct

Maria: The activists involved in the American Indian Movement of the 1960s and 70s knew the importance of self-determination for Indigenous peoples. They saw that they had to reclaim their culture, and take ownership of how their stories were told by museums.

Noel: The story of NAGPRA in Colorado and how it came about is no different, says Garrett Briggs of the Southern Ute Tribe. It was Ute led.

Maria: A self-described “urban Indian” of Ute descent, Garret Briggs was raised in Albuquerque, New Mexico.

Noel: He went to university and got his Bachelor of Arts in Archaeology from the University of New Mexico, and his Masters of Arts in Archaeology from Northern Arizona University.

Maria: Then, after he finished grad school, he moved to Ignacio on Southern Ute land in southwestern Colorado to reconnect with his tribal culture and family.

Garrett Briggs: As my mentor the late Alden Naranjo once said, "I learned the academic way and I returned to learn the right way."

Noel: Alden Naranjo, Cassandra Atencio’s father, was the Cultural Preservation Officer for the Southern Ute Tribe at that time. It was his responsibility to oversee all repatriations and reburials that pertained to Southern Ute.

Maria: He had been active in the American Indian Movement and in the fight for NAGPRA in the 70s and 80s. And he mentored and trained Mr. Briggs in Ute Traditions and NAGPRA work.

Garrett Briggs: Obviously it started with Maria Pearson and others who were fighting for that recognition to be able to handle and give their ancestors the respect and dignity they deserve.

Noel: Maria Pearson was a woman from Iowa whose husband worked for the Iowa Department of Transportation. They were building a new highway outside of town when they accidentally unearthed a burial site.

Maria: Chip Colwell:

Chip Colwell: And the construction crew came across twenty-seven graves. Archeologists were called out. They dug up all twenty-seven graves. Twenty-six of those graves were determined to be people of Anglo descent. So they were immediately taken to the cemetery and reburied. No analysis, nothing at all, just reburied because they were white people. There was one individual who the archeologist determined was Native American, likely Potawatomi. She might have died at childbirth. And because she was Native American, she was taken to the office of the state archeologist. So here you have one cemetery, people all from the same same time period. And you had twenty-six people treated one way because they were white, and one person treated differently because they were Native American.

Maria: Maria Pearson didn't need to know if the Indigenous girl was her relative, or if they were even members of the same tribe.

Noel: Someone had once cared for her, and buried her according to their tradition.

Chip Colwell: It's a profound example of inequality, of showing how Native Americans were treated so differently. But the thing is that the archeologists at the time, they weren't nefarious.

They weren't doing this to try to, you know, create racial hierarchies or anything like that. This was the law of the land, it said in Iowa "Native American burials were archeological resources for the state." So we needed a change. It wasn't just attitudes, but the law itself.

Maria: Pearson went straight to the Iowa capitol to confront Governor Robert D. Ray.

Noel: The governor's mother was sick at the time, and Pearson asked him how he would feel if someone dug her up and took souvenirs from her body, such as her wedding ring, or glasses.

Maria: The timing helped Governor Ray see the injustice of it. So he created the Indian Advisory Council for the Office of the State Archeologist, and invited Pearson to speak before the Iowa legislature. Indigenous activists and archeologists came together and negotiated until the Iowa Burial Code was amended in May of 1976.

Noel: Though the updated law only applied in the state of Iowa, many consider this legislation to be one of the first major steps toward what would eventually become NAGPRA.

Maria: During that same time, says Chip Colwell, American Indian activists pushed hard to draw attention to the need for a federal law to repatriate and protect their ancestors and sacred artifacts.

Chip Colwell: So you had some Native American activists, especially those associated with the American Indian Movement, doing all kinds of things to try to raise the profile of this problem. And so they would do things like, in one case, they went to an excavation in Minnesota and they, quote-unquote kind of 'raided' the excavation site and they broke some shovels and filled some of the excavation pits. In California, they went to a museum and chained themselves to an exhibit case that had on display human remains... At Colorado State University, you had a group that went and tried to make a citizen's arrest of a professor who had been excavating some Native American grave.

Noel: But there was also a lot of resistance to repatriation efforts, much of which came from the scientific and academic community. Here's Suzan Shown Harjo again on the podcast *Red Hoop Talk*.

Suzan Shown Harjo: We had to change the language. I mean, what do you do when you want to legislate respect? Well, you don't use disrespectful words. You don't use "grave goods" if you don't want people to act like pirates. You don't use that term. And we got a lot of pushback from scientists about not using grave goods as if that were a scientific term. They had used it so long they thought it was a scientific term of art.

Noel: In 1989, the National Museum of the American Indian Act established a Smithsonian affiliated museum dedicated exclusively to preserving and studying American Indian culture and history in Washington DC. It also provided for the repatriation of over 4,000 human remains in their collection.

Maria: But the Smithsonian's holdings were just a fraction of the hundreds of thousands of American Indian ancestors being held by institutions across the country.

Noel: Harjo and other activists knew they needed to push for Federal repatriation legislation while sympathies were on their side. Anthropologists and archaeologists were already resisting language in the proposed legislation that they felt would hinder their research.

Suzan Shown Harjo: Some of the scientists who were there say, "We're not going to go along with the term "human remains" because that means that International standards of human rights will apply to... Indians... And they didn't believe they should or did. And in short, it means you, when you're buried, you get to stay buried. And they thought that was an unreasonably harsh standard.

Noel: But despite the objections from the scientific community, NAGPRA passed both the House and the Senate and was signed into law in 1990. Then, the difficult work of repatriation began.

[Music]

Noel: While NAGPRA required Federally-funded museums, universities, and other institutions with indigenous holdings to comply with the law administratively, there were a lot of problems with it.

Maria: One, that we mentioned earlier, was the issue of identification and cultural affiliation.

Noel: Some institutions had remains that had been delivered in boxes or unearthed without proper documentation or lacked any identifiable cultural artifacts.

Maria: Again, in many cases, this allowed institutions to delay or avoid consultation with tribes altogether.

Noel: But another big issue was that NAGPRA was based in American property law. ancestor's remains and sacred objects, when they could be identified, were deemed to be the PROPERTY of tribes under NAGPRA, and thus had to be returned as a procedural matter if the tribes wanted it back.

Maria: And because it was based in property law, NAGPRA, as a Federal law, could only be enforced at the Federal level. And that meant that the law didn't apply to private collections. Here's Garrett Briggs.

Garrett Briggs: While I'm aware of and understand how property law works, and how it contributed to the legal grounding in NAGPRA itself, it still bothers me that someone can legally own our Ancestors' human remains without their consent.

Noel: Additionally, the tribes also had enormous administrative burdens related to repatriation, and little funding to handle it.

Maria: Plus, the emotional, cultural, and spiritual burden fell almost exclusively on the tribes.

Noel: Not only did they often have to put public pressure on museums and institutions to get them to comply with the law, they also had to create all new rituals for re-burial, and carry out those rituals once their ancestor's remains were returned.

Cassandra Atencio: There's no such thing as a reburial process for us, you know, as the way that I was taught and the way that I was told was that there's no reburial process. We don't have one. But because these people came up, we have to do something for our Ancestors.

Maria: As Garrett Briggs and Cassandra Atencio noted, once a Ute ancestor was buried under traditional, pre-colonial circumstances, they were returned to the earth and quote "put away." And the living didn't visit their grave sites.

Garrett Briggs: So when tribes repatriate ancestral human remains or culturally significant objects, like the Utes, our forefathers and foremothers, our predecessors had to develop a way for that to be possible. Because of those cultural taboos, things had to be done to make sure that we were cleansed, that we were taking care of ourselves and our loved ones. Because traditionally we wouldn't handle human remains, it's taboo. And so... That responsibility came upon us due to indigenous activism to make NAGPRA come to the level at which it is today as a federal law, but also we realize by pushing for that, that we would have to adapt culturally and spiritually to take care of our ancestors.

Noel: In addition to the emotional, labor intensive work of repatriating and re-burying their own ancestors under NAGPRA, Southern Ute and Ute Mountain tribes have taken on even more

more work under a separate Colorado process meant to complement NAGPRA. It's known as the "Unmarked Human Graves Law" that applies to public and private lands within the state.

Garrett Briggs: The southern Ute Indian tribe and the Ute Mountain Indian tribe, through the state process, we have an agreement that we are the ones who handle inadvertently discovered human remains that cannot be culturally identified to make sure those ancestors, regardless of their cultural affiliation are given the respect and dignity they deserve and they are able to be reburied and returned to a new final resting place.

Noel: Like so many other institutions around the country, museums in Colorado held significant numbers of American Indian human remains in their collections. The Museum of Natural History in Denver, The Colorado Springs Fine Arts Center at Colorado College, and History Colorado to name a few, all had work to do when NAGPRA passed in 1990. Chip Colwell was working at The Denver Museum of Nature and Science at the time. He says many museums didn't even know what was in their collections. But once they finally took an inventory to report to the tribes, there was more than anyone could have imagined.

Noel: The Denver Museum of Nature and Science was proactive in their approach to repatriation, says Colwell.

Chip Colwell: We were one of the most proactive Museums, perhaps in the country in our work on NAGPRA. We, unlike many museums, didn't sit on our heels and wait for claims to come. But we actually proactively reached out to tribes to try to figure out how we could confront this crisis, and try to out and try to figure out how to bring some resolution to it.

Maria: DMNS had about a hundred indigenous remains while institutions like the Smithsonian, Harvard, and Berkeley held tens of thousands.

Noel: History Colorado had almost 500 indigenous human remains and nearly 2,500 funerary artifacts in its collection that needed repatriation. And all human remains and associated funerary objects have since been returned.

Maria: But former NAGPRA Liaison Sheila Goff says that it wasn't the numbers or the costs of repatriation that caused federally funded museums and universities to drag their feet.

Sheila Goff: Sometimes museums do not have what I call the 'institutional will' to move forward with repatriation. And those are the museums that throw up every roadblock they can to avoid it.

Noel: On top of the objections of some anthropologists and archaeologists, there has also been a lack of willingness to acknowledge the very real suffering that tribes feel.

Sheila Goff: When tribes came to consult about the return of their ancestors, it was, it was hard. You could see the pain and the frustration in the hearts and minds of the people that we were consulting with.

Maria: And Chip Colwell says the daunting size of an institution's collection is often just an excuse to avoid this pain due to unreasonable fears. Tribes don't simply want to walk into institutions, take everything, and walk out in anger.

Noel: They're often more than happy for the museums and universities to collect and care for parts of their culture that were legally acquired.

Chip Colwell: So at the Denver Museum of Nature & Science, there's a collection of about 100 thousand items that were made by human beings. And the collection in total is more than 4 million objects. And even here at one of the most proactive museums in the country, we've returned, after 30 years, around 1,000 items, so about 1% of the total anthropology collection.

Noel: And even when collections of indigenous artifacts weren't legally or ethically acquired, they often make arrangements for the museums to house and care for them.

Maria: Aside from collecting their ancestors, what tribes often object to most is having their stories told without them—without their voices.

Noel: And even when NAGPRA laws don't directly apply, the legislation has fundamentally changed the relationships between federally-funded institutions and what tribes expect of them.

Maria: For tribal members and non-Native representatives of institutions that have embraced NAGPRA, it's about much more than repatriation.

Noel: Sheila Goff says the fact that History Colorado chose to be proactive about NAGPRA meant that the law was just a starting point for far more meaningful professional and personal relationships.

Sheila Goff: People talk about the spirit of the law and the letter of the law. Well, certainly everybody needs to comply with the letter of the law, but the spirit is something that not everyone embraces, and I would say the History Colorado did.

Noel: Goff says that working in a supportive environment allowed her to do the solemn work of preparing ancestors for repatriation. That work required a kind of intimacy that NAGPRA fostered, but couldn't mandate.

Sheila Goff: It's hard work. On the other side, when you complete the NAGPRA process and you are able, as I was fortunately honored to be able to do, to attend reburials where the Ancestors are placed back where they should be per tribal traditions, that is... Again, for myself as a non-native, so it's different for native clearly, but it did bring about a sense of closure, a sense of, for myself, of knowing I had tried to help ease the pain that the descendant community

members have in this kind of a situation. And I think you don't realize that, the depth of that until you again have that, that actual experience.

Noel: Garrett Briggs says that though NAGPRA was designed to deliver some small amount of justice to tribes and their ancestors for the disturbance of their burial sites and the looting of their culture, in some cases it delivers something much bigger.

Garrett Briggs: I think that I will always remember the first reburial that I was involved in. It was, as I mentioned earlier, you can't define what that emotion is. You know that is the right thing to do. But I'd be hard pressed to find a term in any language, potentially, of how that feeling makes you feel as an individual, that experience, that moment, that time, because those moments are supposed to be very solemn. And... You just can't completely explain it. Just being able to feel it and to see it. Just feel the moment, feel the energy and being able to be just a part of it. As I would say, life-altering personally, I mean, it's. It really strips you down and brings you to the core of humanity.

[MUSIC]

Maria: Cassandra Atencio and Garrett Briggs know that the work of NAGPRA won't be done in their lifetimes, if ever. Even though Colorado has completed most of its repatriation of Ancestors from institutions, there are always new discoveries.

Noel: Remains from private collections get donated to museums, graves get dug up during highway projects, and archaeologists come across new sites and challenge the scope of the law.

Maria: Then there are the discoveries of things like mass grave sites at former Indian Boarding schools throughout North America.

Noel: Discoveries like this, says Dr. Anton Treuer of the Ojibwe Tribe and Bemidji State University in Minnesota, aren't just painful reminders of the colonial past, which sought to destroy indigenous cultures and force them to assimilate.

Anton Treuer: A third of indigenous people have been fostered and adopted out of their communities. And that remains the data today, serving to disconnect so many of us from our places and our people. And they're just part of a longstanding assault on our culture and our very ways of being... So I would say some of the defining attributes of colonization include taking one language, culture, way of being and using it to supplant all others, forced assimilation. And in many ways, I feel like we are still in a colonial environment where our kids are forced to learn academic English and our tribal languages, cultures and customs are not supported, or even valued in the school system, and so it touches on all of these things.

Maria: Though he's since reclaimed his language, Anton Treuer's upbringing was no different, nor was his mother's, or grandmother's.

Anton Treuer: My grandmother, who's still alive, she's 98 now, was taken from her family and sent to a residential boarding school and received harsh physical punishment for her use of our language. And, you know, it broke the intergenerational transmission of our tribal language in my family... So that my mother didn't get to grow up to be a speaker.

Noel: Despite the ongoing emotional burden of facing these kinds of dehumanization, Cassandra Atencio says that doing NAGPRA work is not an option for her, but a duty and a calling.

Cassandra Atencio: And that's all you can do, you know? You don't think about, oh, how emotional it is, because you gotta get up and go do it. That's what you're there for. I understand

now why I am here. You know, you, you get your sense of place. For me the honor was being able to carry on, for my elders. Not everybody, not anybody can do this work.

Maria: Again, here's Shannon Voirol, Director of Exhibit Planning at History Colorado

Shannon Voirol: Unlike lots of museums, because we are the state agency, whenever there's an inadvertent discovery, our NAGPRA work kicks up again. And so that's different than lots of other museums around the country. And while that is incredibly hard work to do, it means that our relationships with the Ute tribes keeps getting refreshed, right? It keeps, because it's not something that we did 20 years ago and and we haven't done in a long time.

Cassandra Atencio: It's heartbreaking when you hear I have an inadvertent discovery because of a project development. Okay? Or just somebody was hiking and they eroded out, you know? It's like or, you know, or I was, somebody was building a house and they found something that's like, it's just like, Man, you know, our people are all over the place out there. And that validates in that way, though, it validates our presence on the landscape.

Noel: At its base level, NAGPRA has forced museums to reexamine their practices and to share authority with Indigenous peoples in the telling of their stories.

Chip Colwell: Many museums, for the very first time, actually started talking to Native Americans. Maybe they told Native American history for a century, and they never actually bothered to talk to Native Americans and NAGPRA suddenly forced people to talk. I think we can point to many examples of how Native Americans have forced, you know, in a good way, museums to to figure out how to be more inclusive, to share power, to understand that, to understand the responsibility that it has in being a steward of history and other people's heritage.

Maria: And that can only be a good thing, says Colwell, who believes that museums, for all their flaws, are still important parts of our collective cultures.

Chip Colwell: I would say the modern museum is an exaggeration of a deeply human instinct. Humans, throughout time, probably going back at least about 3.4 million years ago, when the very first stone tools are made. We need things to survive. We love things. Things make us who we are without the objects that we use to eat, to sleep, for shelter, to to display our identities, to travel, you know, to the clothes that we wear to protect us from the elements, right? All of these things, most fundamentally make us who we are. And every culture, going back millions of years ago, use things. So I think the modern museum, though, takes that to such an extreme.

Noel: But Western museums, he says, can, and should do better.

Chip Colwell: And so how do we do that? Well, I think we can look to many Native communities themselves. So, for example, some of the sacred objects that the Denver Museum of Nature & Science has repatriated to the Tlinkit in southeast Alaska, those items actually went right back into a museum, because the the communities there wanted these items protected. You know, they didn't want them lost or stolen or damaged in a fire or anything, and a museum is a safe place. But when the, when those items are needed for ceremonies, they are taken out, kind of almost like a library book and used and then brought back to the museum for safekeeping. And so the idea of a museum as a kind of keeping place, but a place that acknowledges that these items are living things, they're meant for living cultures, that maybe is one model.

Noel: Shannon Voirol:

Shannon Voirol: We are thrilled that people place their trust in museums. And that's why they come here, and they believe what we say, and we don't want to not be reputable sources of information. But at the same time, history is really messy as well as science is really messy and

art is really messy, right? So our leadership now is interested in showing more of that messiness and the nuance and the sort of fight for truth or many truths, or that there are many truths, so that's just kind of how History Colorado is moving through the ecosystem right now, is, is listening and facilitating storytelling.

Maria: Sheila Goff says NAGPRA has been overwhelmingly good for the museums that embraced it:

Sheila Goff: It enhances everything else you do in the museum. It enables the museum to do better exhibits, to have, to understand what they have in their collections, to do better education programs. It's positive all the way around. You are missing out on, you know, the interpretation of any of the Native items that you have in your collection unless you talk to the people whose ancestors made those items.

Noel: Shannon Voirol agrees.

Shannon Voirol: It's just this belief in returning folks and having them go home, and I do think it really, really colors how museums operate. And that's why I've learned so much from people who literally do NAGPRA and to watch them interact with tribes and to help teach me cultural sensitivities and government to government relationships. It's just, it's been the most rewarding part of my job, to be able to tell those stories in that way, because of NAGPRA, in part.

Noel: Anton Treuer sees not only progress in museums as a result of NAGPRA, but tangible signs of genuine change.

Anton Treuer: Just this year, just a few months ago, they actually repatriated a land parcel to the Upper Sioux community that was kept for the Minnesota Historical Society. And I was at the meeting and the tribal chair was on the call crying, saying "My dad said they would never, ever, ever, ever do this. And they did this. And I just can't believe it." And he was just overwhelmed

with gratitude. And still, and the relationships are still sometimes tense and it's not reconciled. But it's reconciling.

Maria: But everyone needs to participate for meaningful healing and reconciliation to take place.

Noel: And that means that all institutions still holding ancestral remains need to do their part not just in the letter of NAGPRA, but in its spirit.

Anton: I think one of the things that America broadly and Americans need to come to terms with is that you can't get to healed and skip all the healing and you can't get to reconcile and skip all the reconciling and, you know. And so this is one of a thousand apologies and healing efforts that are needed on the road of reconciliation and the process of healing.

Noel: For Garrett Briggs, NAGPRA has been a good start to an imperfect process that will undoubtedly take generations of descendants willing to do the same difficult and important work he and other members of the Ute tribes have done.

Garrett Briggs: Personally, the ability for us to remove our Ancestors from an environment where they've been treated like scientific objects of curiosity or specimens, and provide them with the respect and dignity they deserve as a human being, to be returned to where they should be. That is probably the biggest thing that has come out of NAGPRA for me.

Maria: For Cassandra Atencio, who carries on the work of her late father, Alden Naranjo, there's no hurry.

Cassandra Atencio: We have to be transparent with each other and come to the table. Like the old saying says, "If you're not at the table, you're on it..." Do we have a long way to go? Yeah, we have some ways to go, but we're getting there and you can kind of see that progress. And I think that consultation and the fact that we're starting to consult a lot more and that tribes are

being more vocal and our understanding the process better is, is we're making headway, yet we still need to, where there's closed doors. But we're going to keep knocking.

[OUTRO]

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Noel: Tyler Hill, my co-host, composed the music for this episode. Our theme is by Conor Bourgal.

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Noel: Finally, thanks to the entire staff at History Colorado. I'm Noel Black.

Tyler: And I'm Tyler Hill. Thanks for listening.