

# Provenance Research & NAGPRA

# — Art Provenance is...

...the history of ownership of a work of art, from its creation to the present.

...a chronological record that includes the names of owners, dates of ownership, and how the art was transferred from one owner to another.

## Why is provenance important?

Knowing the provenance of an artwork can help scholars:

- Understand the art's function, condition and place in art history
- Verify authenticity
- Assess legal and ethical issues, such as theft and looting
- Understand the economic and market conditions that influenced sale or transfer

# — Provenance Research at DAM

Ethical collecting practices are at the core of the museum's mission.

Provenance research is an ongoing and important aspect of curatorial practice. Over the last several years, DAM has invested additional staff and resources toward researching the ownership histories of objects in our collections.

- A dedicated Provenance Department was created in 2022 and consists of two full-time Provenance Researchers and a two-year Provenance Research Fellow.

The DAM is one of only 12 US museums with a Provenance Research department.

For a collection as large and as varied as the DAM's, ongoing provenance research is an essential component of our commitment to ethical collecting practices.

Provenance research is conducted across the museum's collections for past collections and new art acquisitions.



# Intro to NAGPRA



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NAGPRA

# Native American Graves Protection and Repatriation Act

- NAGPRA legislation requires Federal agencies and institutions that receive Federal funds (including museums, universities, state agencies, and local governments) to alert all Indigenous tribes about items in the institution's collection which may belong to the tribal community, and which are human remains or other items that fall into three specific categories (which are explained on the next slide).
- Under this legislation, the museum must honor any requests to view items in their collections and consult with requesting tribes to establish if certain objects are eligible for repatriation. (Human remains are always eligible.)
- After a consultation, the tribe can formally request that an object be returned to their community. When this happens, there are specific steps an institution must take, within certain timeframes, to be in compliance with NAGPRA legislation. The formal requests set all the mechanisms of repatriation in motion.



## Besides Human Remains, what items are subject to NAGPRA?

- A funerary object — An item reasonably believed to have been intentionally placed with or near human remains
- A sacred object — A specific ceremonial object needed by a traditional religious leader for ceremonies still being practiced today
- Object of cultural patrimony — An object that has ongoing historical, traditional, or cultural importance central to a Native American group, as described by Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization. Objects of cultural patrimony are not owned by individuals; they are the property of a clan, society, or tribe, so no individual has the right to sell, trade, or give the items to another without agreement of the group.

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## Why was such a law needed?

- Many museums and universities were in possession of the human remains of the Indigenous peoples of these lands and they refused to return them.
- Objects were taken through coercive practices such as forced conversion to Christianity and forced acculturation, or through brutal practices such as robbing graves, taken off corpses, or raids.
- Under severe duress or economic hardship, Indigenous people were forced to sell family heirlooms to survive.
- Native ceremonies such as the potlatch were outlawed, and priests and lawmakers confiscated ceremonial items and auctioned them off or held them in their own collections.

# NAGPRA at DAM

- 35 years of NAGPRA compliance
- Communications with more than 620 tribal communities
- More than 80 in-person consultations conducted
- DAM's efforts and policies were developed in partnership with then-Trustee Jhon Goes in Center, and then-Director of the Native American Rights Fund, Walter Echo-Hawk, who also helped draft the original NAGPRA legislation.
- Since 1979, we've repatriated nearly 40 cultural items. (The DAM never collected Indigenous human remains.)
  - The 1979 repatriation was one of the first voluntary returns of an object of cultural patrimony to an Indigenous community by a museum.





# NAGPRA at DAM

- When the legislation first took effect in the 1990s, the DAM was one of the first museums to adopt a repatriation program that made us a leader in this field.
- We appreciate and support NAGPRA for the guidance it provides to best repatriate objects to their rightful owners.
- The Denver Art Museum Indigenous Community Advisory Council continues to advise the museum and ensures our accountability to Native communities locally and across North America.
- The museum's Andrew W. Mellon Curatorial Fellow of Indigenous Arts of North America supports NAGPRA work, with 50% of the time dedicated specifically toward this work.
- NAGPRA legislation was updated in January 2024 to match the changes to the regulations.

# Updates to NAGPRA

- Museums and Federal agencies must defer to the customs, traditions, and Native American traditional knowledge of lineal descendants.
- Definitions of a funerary object, sacred object, or object of cultural patrimony may be according to a lineal descendant, Indian Tribe, or Native Hawaiian organization and based on “Native American traditional knowledge” instead of scientific, western scholarship or "historical" evidence.
- Area of Hawaiian homelands greatly expanded.
- Federal lands include lands leased by the government.
- Human remains can no longer be documented as culturally unidentifiable, and affiliation for repatriation can simply be a geographical connection.
- New Duty of Care protocols must be followed.



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# What does this mean for the DAM?

- The Denver Art Museum fulfilled all the original requirements of NAGPRA in the 1990s.
- We continue to follow the new NAGPRA guidelines for anything we add to the collection and apply them to ongoing research of past collections.
- Tribes can revisit previously denied claims or begin new inquiries that they could not before based on these new regulations.
- We will continue to respond to any inquiries and conduct consultations and work in good faith with Indigenous peoples and tribes.



# DAM's work with the Central Council Tlingit and Haida Indian Tribes of Alaska

- DAM reconvened with the Central Council of Tlingit and Haida Indian Tribes of Alaska. (July 9, 2024)
- The team listened to their account of what happened in 2017 and asked them what their preference would be for moving forward in healing this relationship.
- Their response was that they wanted to start completely over, and we re-sent a complete inventory of Tlingit and Haida items in our collection. (July 11, 2024)
- We received a letter requesting that the Raven Screen (which consists of two parts) be repatriated along with supporting information. (Nov. 4, 2024) This was the first request for repatriation we had received for this screen.
- The DAM went through our review process and determined these screens were eligible for repatriation; we then went through our deaccessioning process.
- The decision and deaccessioning was approved, and we sent the CCTHITA our decision. (Jan. 23, 2025)
- We submitted our notice to the federal register, who confirmed they received it (Jan. 27, 2025); if there are no edits to our notice, it will be posted to the register within 21 days; if there are no competing claims, we will be free to repatriate the screens 30 days after it is posted.

# ***Sustained! The Persistent Genius of Indigenous Art***

- Explores how Indigenous peoples' resilience, diversity, and creativity have sustained them throughout time
- Centers Indigenous voices, perspectives, and artistic expressions, and is a celebration of Indigenous contributions to the arts and the museum over the past 100 years
- Developed in conjunction with a panel of seven Indigenous community members who shared what type of exhibition would be meaningful to themselves and their communities



Norval Morrisseau (Anishinaabe), *Untitled (Snakes)*, about 1970. Acrylic on paper board; 40 x 32 in. Denver Art Museum: Native Arts acquisition fund, 2010.441. © Norval Morrisseau Estate

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# Resources

## Provenance at the DAM: Information and Updates

- <https://www.denverartmuseum.org/en/provenance-research>

## For information on NAGPRA legislation and NAGPRA at the DAM

- <https://www.nps.gov/subjects/nagpra/index.htm>
- <https://www.denverartmuseum.org/en/nagpra>

## "Preparing for *Sustained!* with NAGPRA Regulations in Mind"

- <https://www.denverartmuseum.org/en/blog/preparing-sustained-nagpra-mind>

## DAM's Collecting Policies and Practices

- <https://d26jxt5097u8sr.cloudfront.net/s3fs-public/2025-01/2024%20Collections%20Management%20Policy.pdf>