

PRESENTATION TO
N.M. LEGISLATURE
INDIAN AFFAIRS COMMITTEE

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Pueblo of Zuni, NM

On S. 1400 – Safeguarding Tribal Objects of Cultural Patrimony (STOP) Act

Good Morning Mr. Chair and Madame Chair, Members of the Committee, and Governor Panteah and Zuni Tribal Council Members:

1. We have been asked to report to you on S.1400, as introduced by Senator Heinrich late last month. S.1400 is a revised version of the Safeguarding Tribal Objects of Cultural Patrimony (STOP) Act, first introduced in 2016 as part of the 114th Congress. When the 114th Congress ended in December of 2016, the STOP Act, as with all pending legislation, died with it. S.1400 is a slightly revised version of this proposed legislation.
2. Senator Heinrich introduced the STOP Act to address a situation that is increasingly familiar to the Indian Tribes of New Mexico. For generations, Native American cultural items, including human remains, funerary objects, sacred objects and objects of cultural patrimony were looted and sold to collectors of tribal material culture in the United States and other countries as Native American Art or Historical Objects.
3. Existing federal laws, the Native American Graves Protection Act, the Archaeological Resources Protection Act and the Antiquities Act, were intended to prevent the taking of these items, but these federal statutes did not expressly prohibit a cultural object from being EXPORTED and sold in a foreign country.
4. To make matters worse, the penalties for the theft of these objects were such that often, the theft did not even qualify as a felony. The result was that there were very few U.S. Attorneys willing to expend the resources to prosecute these cases for a misdemeanor. Without active federal enforcement, a black market continues to grow, unchecked.
5. International and domestic art collectors and dealers now travel to places in New Mexico, such as Santa Fe, in search of high-value Native American arts and crafts, and this, in turn is a significant driver in the New Mexico economy. Alongside art collectors are those seeking out

tribal material culture to supply a black market to move these cultural items that have been wrongfully taken from places like New Mexico into international markets where sales are not illegal. From 2015-2016 there were at least ten incidents involving at least 24 items of Acoma Pueblo tangible cultural heritage offered for sale by auction houses, art galleries, and internet sites.

6. The Acoma Pueblo Ceremonial Shield is the most publicized example of the problems with federal laws without the STOP Act. The Acoma Shield is deeply sacred and has a significant meaning and purpose to the Pueblo of Acoma. It is NOT an ART OBJECT. The shield was stolen in the 1970s, along with other shields, from a home at Sky City, Acoma's ceremonial center. In 2015 the Shield turned up in an Auction catalogue for the EVE Auction House in Paris, France, where U.S. laws prohibiting the sale of ceremonial objects do not apply. EVE has, for years, been active in the sale of American Indian ceremonial objects - including the sale of many sacred items from Pueblos, the Hopi Tribe and the Navajo Nation. Upon information and belief, the Acoma Shield was sent to the Auction House on consignment by an individual in Santa Fe, New Mexico.

7. Acoma enlisted the assistance of the U.S. Departments of State, Justice, and Interior, as well as New Mexico Senators Heinrich and Udall, and Representative Pearce, and Indian tribes across the country to demand that the auction be halted. Indian Tribes held an emergency meeting at the National Museum of the American Indian calling on the U.S. and French governments to prevent the sale of the Acoma shield and other items of cultural patrimony.

8. Ultimately, for the first time in history, EVE Auction House bowed to international pressure and removed the Acoma Shield from the sale. But, it has yet to be returned to Acoma.

9. Former United States Attorney Damon Martinez instituted a forfeiture action in New Mexico, and has invoked the Mutual Legal Assistance Treaty between France and The United States to seize the Acoma Shield. At this time, that process is on-going. However, it is important to note that France's inaction has partially been based on their observation that U.S. law does not explicitly prohibit or restrict export.

10. S. 1400, the STOP Act, seeks to prevent more cases like the Acoma Shield. The key provisions of the Act:

A. Explicitly prohibits the export of items protected by NAGPRA, the Antiquities Act, and the Archaeological Resources Protection Act;

B. Doubles existing penalties for violations of those Acts and the STOP Act so that enforcement will be at the felony level rather than the misdemeanor level;

C. Establish as federal policy encouraging the voluntary return of tangible cultural heritage to tribal communities. The bill directs the secretaries of Interior, Homeland Security, and the State Department, as well as the Attorney General, to appoint liaisons to facilitate the voluntary return of cultural property and directs the secretary of the Interior to develop and maintain a list of contacts for the return of cultural property to which individuals and organizations can be referred; and

D. Establishes a tribal working group to develop recommendations on the return of cultural heritage, the elimination of illegal commerce in cultural heritage, and repatriation of cultural heritage that has been illegally trafficked.

11. It differs from the 2016 version in that it:

A. no longer contains a two-year amnesty period for Individuals who voluntarily return all illegally possessed tangible cultural heritage to the appropriate tribes. This provision was removed at the request of ATADA (Antique Tribal Art Dealer's Association) and several Tribes, including the Hopi Tribe.

B. No longer directs the U.S. Government Accountability Office to prepare a report on the number of cultural objects illegally trafficked, both domestically and internationally and the number of prosecutions, because such a study has already been initiated as a result of the efforts of Representative Pearce, with the strong support of the New Mexico congressional delegation.

12. Acoma will be approaching members of the Committee to sponsor a Joint Memorial in support of S. 1400 because it is of great importance to the Indian Tribes of New Mexico.

13. It is also of great importance to the State of New Mexico, due to the importance of Indian Arts and Crafts to our economy. The last thing that New Mexico needs is to have the validity of that market destroyed by this black market in cultural heritage.

Co-Chairman Pinto and members of the Committee, I am happy to answer any questions you may have for me.