



U.S. Department of Justice

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District of New Mexico*

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March 5, 2001

VIA FEDERAL EXPRESS

Michael E. Horowitz
Chief of Staff to the Acting Assistant Attorney General
U.S. Department of Justice
Criminal Division
950 Pennsylvania Avenue N.W., Room 2712
Washington, D.C. 20530

RE: Heritage Resources Crimes and the Sentencing Guidelines

Dear Mr. Horowitz:

I recently received a copy of a letter sent by my colleague, Paul M. Warner, U.S. Attorney for the District of Utah, to the Department of Justice's representative on the Sentencing Commission. As the U.S. Attorney for the District of New Mexico, I want to add my wholehearted support to Mr. Warner's comments. The rich heritage resources contained in New Mexico are almost exclusively protected through federal prosecutions, yet the United States Sentencing Guidelines (U.S.S.G.) do not address these statutes.

The cases we have prosecuted in the District of New Mexico have made it clear to me that the effects of crimes prosecuted under the Archaeological Resources Protection Act (ARPA), 16 U.S.C. § 470 et seq., and the Native American Graves Protection and Repatriation Act (NAGPRA), 18 U.S.C. § 1170, fall heavily on Native American populations and on all future generations. The U.S. Attorney's Office is called upon not only to preserve archaeological resources, but also to prevent destruction of sacred sites and trafficking in sacred items transformed into art objects by greedy dealers.

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Our efforts are often less successful than desired because the U.S.S.G. do not dictate a certain punishment. I would like to add my support as the U.S. Attorney for the District of New Mexico to that of my colleague, Mr. Warner. I urge the Sentencing Guidelines Commission to adopt guidelines consistent with Mr. Warner's thoughtful and important recommendations.

Sincerely,



NORMAN C. BAY
United States Attorney

NCB:ks

cc: Paul M. Warner
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District of Utah
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