



Preserving America's Heritage

FACT SHEET

ACHP's "Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects"

What is the ACHP's "Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects?" This policy is a formal statement that represents the Advisory Council on Historic Preservation (ACHP) membership's position on what to consider in reaching decisions about the treatment of burial sites, human remains and funerary objects that will or may be encountered in undertakings subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and its implementing regulations, 36 C.F.R. part 800 (Section 106). This new policy replaces the ACHP's 1988 "Policy Statement Regarding Treatment of Human Remains and Grave Goods."

When did it go into effect? The policy went into effect on February 23, 2007 when it was unanimously adopted by the membership at the quarterly business meeting in Washington, D.C.

Who is the policy's intended audience? This policy statement is intended primarily to assist the Federal agency official in making decisions in the Section 106 process, after consultation with others as specified in the Section 106 implementing regulations.

Who developed this policy statement? A draft policy statement was developed by an Archaeology Task Force appointed by ACHP Chairman John L. Nau, III, which included ACHP members Julia King (expert member), Gerald Peter Jemison (Native American member), the Departments of Agriculture, Defense, Interior, and Transportation, and the National Conference of State Historic Preservation Officers (NCSHPO). The work of the task force benefited from the participation of two observers: the ACHP's Native American Advisory Group and the National Association of Tribal Historic Preservation Officers (NATHPO). Representatives from the Society for American Archaeology, the Society for Historical Archaeology, the American Cultural Resources Association, the Register of Professional Archaeologists, and the American Association of Museums provided technical assistance as needed. The draft policy was then submitted to the full ACHP membership for consideration.

Why was a new policy needed? The ACHP's Archaeology Task Force determined that the ACHP's 1988 policy needed revision because it did not take into account either the passage of the Native American Graves Protection and Repatriation Act of 1990 or the 1992 amendments to the National Historic Preservation Act. Further, the Archaeology Task Force recognized the need for formal guidance in those situations where human remains, burial sites, or funerary objects may be encountered and neither federal nor state laws address the situation.

How were Section 106 stakeholders involved in the development of the policy? The ACHP conducted extensive outreach and consultation on the policy. As part of this effort, the ACHP's Archaeology Task Force disseminated three versions of the developing policy for public review and comment, and conducted eight regional consultation meetings solely with Indian tribes and two with Native Hawaiian organizations. Chairman Nau personally invited tribal leaders to participate. Comments also were solicited from, and the proposed policy was discussed at meetings of the Society for American Archaeology, the American Cultural Resources Association, the Society for Historical Archaeology, United

South and Eastern Tribes, the National Trust for Historic Preservation, NCSHPO, and NATHPO.

What major issues were considered in its development? The major issues addressed by the ACHP's Archaeology Task Force in developing this policy included:

1) Should there be a single policy? The Task Force concluded that a single policy applicable to all peoples and burial sites affected by an undertaking is the preferred approach. The policy, however, explicitly recognizes the sovereign status of Federally-recognized Indian tribes and that consultation with them must take place on a government-to-government basis.

2) Will this policy have an impact on the Native American Graves Protection and Repatriation Act (NAGPRA)? Implementation of this policy will not modify, add to, or detract from NAGPRA or any other applicable federal, tribal, state, or local law.

3) Does the policy direct an outcome? Many stakeholders wanted the policy to mandate an outcome or specify a possible range of outcomes, from immediate reburial to scientific study. The task force, however, determined that the policy should not prescribe any specific outcome. Rather, decisions about how to treat burial sites, human remains, and funerary objects should be determined through the Section 106 consultation process on a case-by-case basis.

4) What does the policy say about the study of human remains? Many Indian tribes object to their ancestors' remains being considered specimens available for study, while many in the professional archaeological and scientific community believe that the value of the information learned about the past from the study of human remains should be acknowledged. Because the policy does not prescribe a specific outcome, the question of scientific study is to be resolved on a case-by-case basis by the federal agency through Section 106 consultation.

Please address any questions about the policy and its application to the ACHP at the following address:

burialpolicy@achp.gov.