



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO
OPNAVINST 11170.2A
N46
12 Jan 07

OPNAV INSTRUCTION 11170.2A

From: Chief of Naval Operations

Subj: NAVY RESPONSIBILITIES REGARDING UNDOCUMENTED HUMAN
BURIALS

Ref: (a) Native American Graves Protection and Repatriation
Act, 25 U.S.C. 3001
(b) National Historic Preservation Act, as amended, 16
U.S.C. 470-47W-6
(c) Archeological Resources Protections Act of 1979, 16
U.S.C. 470AA-MM
(d) 36 CFR 60, I, National Register of Historic places
(e) NAVFACENGCOM P-73, Chapter 9, Relocation of
Cemeteries

1. Purpose. To provide guidance regarding the discovery and
handling of undocumented human burial(s).

2. Cancellation. OPNAVINST 11170.2

3. Background.

a. Human burials and associated funerary objects may be cultural resources as defined under references (a) through (c). Reference (e) clarifies Department of the Navy policies, procedures and responsibilities when the military mission will impact documented human burials or cemeteries. Undocumented burials in excess of 100 years of age are considered archaeological sites and will be treated appropriately in accordance with references (a) through (c) and their implementing regulations. The discovery of undocumented burials and subsequent excavation or relocation requires that special procedures be followed, as specified in references (a) through (c), and stipulated in paragraph 6 of this instruction. Furthermore, local laws may require notification of civil authorities upon discovery of undocumented burials to determine if a possible crime scene exists.

b. Undocumented burial sites are typically unmarked and not readily obvious. These types of sites may contain remains of Native Americans and early settler communities and are often associated with the sites or remains of old hospitals,

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cemeteries. Fragmentary human remains may also be encountered in previously disturbed soil and are also covered by this instruction. Cemeteries, which are covered by reference (e), are usually marked and separated from the surrounding area by some delineated boundary, and documented by grave markers and written records.

c. Identification and return of Native American, Native Alaskan, and Native Hawaiian remains and cultural objects are required by reference (a). This is not required for other populations.

4. Policy. All Navy-controlled burial sites will be treated with utmost respect and where possible, protected from the impacts of Federal actions. If the military mission requires use of the land, documented cemeteries or undocumented burials that are not part of a crime scene and are of no archaeological interest, may be relocated in accordance with the requirements of reference (e). Undocumented burials over 100 years of age may be excavated as an archaeological resource in accordance with requirements in references (a) through (c). Local commands are authorized to make decisions regarding management of land containing burials in accordance with references (a) through (e).

5. Responsibilities. The following procedures shall be followed when planning any action that may require ground disturbance.

a. The Chief of Naval Operations (CNO (N46)) shall inform the Deputy Assistant Secretary of the Navy for Installations and Environment (DASN I&E), of any issues that have not been resolved through normal procedures by Commander Navy Installations Command (CNIC) Regional Commanders or the local Facilities Engineering Command (FEC).

b. Commander Navy Installations Command shall be familiar with references (a) through (e), ensure proper and timely execution of this policy, and forward reports of significant burial findings to CNO (N46).

c. Regional Commanders, Installation Commanding Officers, and BUMED Commanding Officers shall consider the possibility of encountering undocumented human burials when planning any ground disturbing action and follow procedures outlined under paragraph 6 upon discovery of undocumented burials.

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6. Procedures. Regional Commanders, Installation Commanding Officers, and BUMED Commanding Officers shall:

a. Stop work immediately upon discovery of undocumented burial(s). Notify Naval Criminal Investigative Service (NCIS) and a qualified cultural resources professional either on the staff of the cognizant Region or Facilities Engineering Command.

b. If burial is not part of a crime scene, ensure appropriate notification is given to the State Historic Preservation Officer and to the cognizant Navy Region.

c. Determine whether the burial is Native American, Native Alaskan or Native Hawaiian; and, if so, implement the procedures of reference (a).

d. If the burial is not Native American, Native Alaskan or Native Hawaiian, consult with interested parties regarding identification, cultural or historic significance, eligibility determination for National Register of Historic Places documentation, and documentation of compliance with reference (c) and other applicable Federal, state, and local laws. A qualified cultural resources professional either on the staff of the cognizant Region or FEC shall act as the cultural resource technical consultant to the Navy, providing technical support in the planning and execution of 6.e. and 6.f. below.

e. If burials are to be protected in-place, actions include:

- (1) Literature search, professional archaeological survey, and spatial mapping of individual burials;
- (2) Identification of individual remains (if feasible);
- (3) Formal designation of land as dedicated cemetery; and
- (4) Provision of access to the descendants.

f. If burials are to be excavated, actions include:

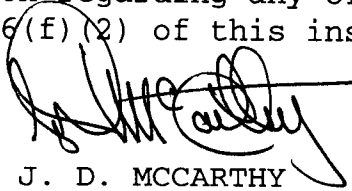
- (1) Literature search, professional archaeological survey, spatial mapping of individual burials;
- (2) Consultation with next of kin or descendants of previous land owners;

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(3) Excavation by qualified professional (in accordance with reference (b) and its implementing regulations) using protective health measures for burial excavations; and

(4) Analysis, report production, and curate complete collection in accordance with reference (c) and implementing regulations.

7. This instruction does not create or confer any entitlement, enforceable right, property interest, standing to sue, or otherwise create any cause of action for any person, group, or interested party. In particular, an interested party has no enforceable right to consultation regarding any of the items or actions discussed in paragraph 6(f)(2) of this instruction.



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