

AMERICAN ASSOCIATION OF PHYSICAL ANTHROPOLOGISTS

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Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 809
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Dear Council Members:

The American Association of Physical Anthropologists (AAPA) appreciates the opportunity to comment on the draft Burial Policy that you have developed. The AAPA is the world's leading professional organization for physical anthropologists with an international membership of over 1,700. We have great interest in the policy you have proposed because many of our members have research interests that involve the scientific analysis of human skeletal remains from burial contexts. We also have been actively involved in furthering legislative initiatives aimed at the repatriation of collections of human remains to culturally affiliated descendant groups. The AAPA participated in the development of the Native American Graves Protection Act and was part of the coalition of Native American and scientific groups that worked for its passage. We strongly support NAGPRA's key goal of balancing scientific interests in ancient human remains against those of modern culturally affiliated groups.

We realize that crafting your draft Burial Policy was a complicated task requiring the balancing of a broad spectrum of potentially conflicting public interests while at the same time working within the statutory constraints of existing law governing the preservation of historic resources. We applaud you for the obvious care and effort you have put into this important activity. You have incorporated many excellent elements into the policy that are directed toward the goals we all support of ensuring that burials are protected and treated with appropriate respect.

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Our main concern with the current draft is its failure to balance rights that clearly identified descendants have to control the disposition of the remains of their relatives with the value that scientific research on burials has for helping all of us to understand the history of humankind. Although the preamble of the draft policy states “that the treatment and disposition of burial sites, human remains, and funerary objects are a human rights concern to many individuals, tribes, and descendant communities,” nowhere in the document is the fact that human remains have the potential to yield important historical information relevant to understanding the history of our country mentioned. We could cite the physical anthropology research that has been done as part of the African Burial Ground project as one specific example, and there are many others. Such studies clearly demonstrate that physical anthropological investigations of human remains from burial contexts have enormous scientific value because of the broad implications the information they can yield have for basic and applied research in the social and natural sciences, medicine, and forensic work. That is, these remains have value for learning about life in distant times, as well as importance for significant present-day medical and forensic concerns. In many cases, these are remains of people who have many living descendants that may not be tribal members or even identify themselves as Native Americans. In other cases, culturally unidentifiable remains may be those of people from that have no modern counterpart and are therefore very distantly related to any modern people or groups.

Although this policy “does not does not endorse any specific treatment, and does not take a position against scientific study of human remains when it is determined to be appropriate after consultation and consideration of other legal authorities that may prescribe a specific outcome,” nowhere is the significance of the scientific information that can be obtained from human skeletal remains recognized in the draft policy. We believe that this is a significant omission that needs to be remedied in the next revision of this document.

The policy seems to assume that in all cases there will be an identifiable descendent with the moral authority to make decisions concerning the respectful treatment of their ancestral remains when often this may not be the case. Nowhere is the probability entertained that a culturally affiliated descendent group does not exist. In such situations, who should be given the moral authority to make decisions concerning the excavation and scientific analysis of burials? Who should we consult with when no credible group exists with whom to consult?

We agree with the section of the policy that recommends that burials be avoided when feasible. The same could be said about archaeological sites and historically significant biological and cultural remains in general. Although avoidance of burials is often a good policy, sometimes it might be necessary to answer important scientific questions, such as those concerning the peopling of the New World, that are of great historical importance. This situation is especially likely with very ancient human remains whose ancestral affinities with any specific modern group of people are tenuous.

We are concerned that if federal agencies adopt avoidance of burials as the only acceptable practice and thus the only context in which scientific investigations are possible, this would preclude the possibility of federal support for burial-related projects that do not involve mitigating the “unavoidable” impacts of construction projects and the like. We find the underlying implication that it is permissible to disturb burials to facilitate construction projects, but not to pursue important scientific research questions, ethically dubious. We are concerned

that if federal agencies adopt the policy of requiring compliance to Section 106 of the National Historic Preservation Act for its grants, this draft policy might preclude legitimate, ethically sound investigations of burials of the type that NSF has frequently funded in the past.

We believe that the value of this policy is decreased by its focus on Native American burials to the exclusion of members of other ethnic groups such as Americans with African and European ancestral affinities, whose burial sites are increasingly being impacted by urban development. There are also forensic contexts in which this policy of burial avoidance without scientific analysis could have unintended consequences.

In summary, we believe that by failing to recognize the important scientific insights that can be obtained through the study of burial sites, the proposed policy is inconsistent with the National Historic Preservation Act and its requirement that Federal agencies to take into account the effects of their undertakings on important sources of information about the history of our Nation such as human skeletal remains.

Sincerely,

John H. Relethford, Ph.D.
President