

**Department of Parks and Recreation
General Guidelines for Archaeological Burials**

**Section IV Reburial Guidelines Amendment
March 2010**

For the purpose of providing specific guidance in the reburial of human remains removed from their original locations as a result of various private and government actions and undertakings, and inadvertent discoveries, the Department of Parks and Recreation hereby amends Section IV of the General Guidelines to include the following:

C. In the absence of *Naftan Manaina-ta*. Where respectful and dignified reburial within the project area and near the original location is not possible, the reburial may take place in another location approved by the Guam State Historic Preservation Officer.

D. Reburial containers must be consistent with acceptable standards and specifications appropriate for archaeological burials. The agency, firm, company will inform and seek the approval of the Guam State Historic Preservation Officer regarding the size, type, and material of the container to be used.

E. In addition to IV.A.1., sealed reburial containers shall contain within them: the number of individuals in each container; site numbers associated with the burial; burial locations as found at the project site, to include site map; project title; agency, other reference project number; project location; date of project; project archaeologist/staff/firm; and reburial date.

F. Each reburial container shall contain no more than four (4) individuals. Inclusion of more than four (4) individuals shall require the approval of the Guam State Historic Preservation Officer. Burials appearing to have been intentionally buried together in the same burial feature shall be placed together in the same container, e.g. adult and child.

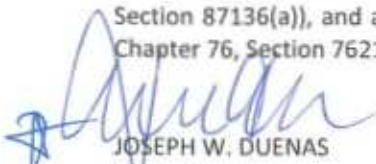
G. Before sealing the reburial containers, the photographic record of the burials stated in IV.A.4., shall be placed in the container. The photographic record is the responsibility of the project archaeologist, archaeological firm, and responsible contracting agency/department. The final (archaeological) project report shall contain the photographic record(s) that were placed in the reburial containers. Final reports shall be submitted to the Guam Historic Resources Division in duplicate and electronic copy.

H. A memorial plaque shall be included as part of the memorial monument, written in Chamorro and English. The script shall be consistent with the history of the place and the number of individuals found. The plaque shall be installed on the memorial monument as appropriate. All costs shall be the responsibility of the agency/department, firm, company, or individual.

I. The Reburial Monument shall be accessible to the public, and shall be designed and constructed by the agency/department, firm, company, or individual, in coordination with the project archaeologist/firm and the Guam Historic Resources Division.

J. Pursuant 21 GCA Chapter 76 Section 76212, the Department of Parks and Recreation shall determine the disposition of all prehistoric and historic properties, to include funerary objects and artifacts that may be found, and, that are considered to be associated with the burials.

K. Agencies, departments, organizations, companies, firms, and others, shall not contravene any laws recognizing the Guam Museum as the official repository and custodian of historical artifacts (5 GCA Ch. 86, Section 87136(a)), and authorizing it to serve as the depository of prehistoric or historic properties (21 GCA Chapter 76, Section 76212).


JOSEPH W. DUENAS
Director

Department of Parks And Recreation
General Guidelines
for
Archaeological Burials

INTRODUCTION

Existing laws and executive orders of the government of Guam have spelled out general obligations with respect to archaeologically discovered burials. These general obligations on occasion need interpretation as to how they apply to specific circumstances of projects and competing obligations. These guidelines are issued for the purpose of assisting in consistent application of these obligations in the many circumstances which arise.

GENERAL REQUIREMENTS

Since several laws and executive orders specifically address human remains in archaeological sites, the following excerpts from those laws state the major general requirements.

"Human Remains shall receive respect and dignity when discovered."

Public Law 20-151.

"Disturbance of Burials shall be avoided whenever possible, but when necessary shall be at the expense of the developer unless otherwise exempted, using procedures and standards acceptable to the Guam Historic Preservation Officer."

Public Law 20-151
Public Law 21-104.

"That Burials be left in place undisturbed to the extent practical."

E.O. 89-24

"...all government agencies...and developers...[shall] make reasonable and good faith efforts in consultation with the Guam Historic Preservation Officer to locate such burials that may be affected by their actions or developments early in the planning

process."

E.O. 89-24

"If such burials cannot practically be left undisturbed, removal shall be done with proper archaeological methods and documentation."

E.O. 89-24.

"Anthropological review of human remains shall be at a minimal level and only for the time authorized by the Guam Historic Preservation Officer prior to reburial."

Public Law 20-151.

"Scientific, medical or other study shall be restricted to the minimum necessary to ascertain cultural or ethnic associations, and to address significant research questions."

Executive Order 89-24.

"the public has a right to the knowledge to be derived and gained from a scientific study of these resources, and that therefore it is the purpose of this part to provide that activities for the preservation, excavation, study, and exhibition of the territory's archaeological resources be undertaken in a coordinated and organized manner for the general welfare of the public as a whole."

P.L. 12-126

"In the absence of expressed preferences otherwise by persons with ascertainable relationships to the specific remains involved or other justifying circumstances, re-interment in an appropriate and respectful manner is to be considered the normal treatment of human remains removed from their original burial locations."

E.O. 89-24

"...any...government agency...shall deliver [human remains which are not held for archaeological, scientific or other valid purposes] to the Guam Historic Preservation Officer, Department of Parks and Recreation all such human remains for proper reburial."

P.L. 21-104

SPECIFIC POLICY GUIDANCE

I. Reasonable and good faith efforts to locate such burials.

In advance of obtaining permits for clearing, grading, building, or for developments and projects of many kinds, an agency or developer is generally required to assess what historic properties, including prehistoric burials, may be within the area of potential effect for the project.

Where surface features of prehistoric sites are still relatively intact, potential burial areas consistent with observed mortuary practices can be defined as areas where disturbances are to be avoided to the degree possible, even without direct confirmation of the actual presence of burials in these areas. Such areas would include:

- areas enclosed within Latte stones;
- areas immediately seaward of Coastal Latte sets;

In addition to such areas, burials may occur in prehistoric sites in locations not predictable from surviving surface features and present knowledge. Testing of other areas within known sites for direct confirmation of the presence of burials may be needed if these areas are proposed for potential subsurface disturbance.

Where coastal prehistoric sites have been disturbed, burials may occur but will not be evident based on current surface appearances of the site. In such instances, subsurface testing to determine areas of greatest likelihood of burials, if any, can be considered reasonable and good faith effort to locate burials. The exact methods of testing should be adapted to the circumstances of the site, but comprehensive enough to provide reasonable confidence that clusters of burials have been found if they exist.

At non-coastal archaeological sites with disturbed surface features, a site will be considered as more likely to contain burials if it also contains or contained Latte, or in the absence of Latte an extensive area of midden (larger than 10 meters by 10 meters). At such areas, subsurface tests to locate potential burials will be considered reasonable.

Smaller non-coastal midden areas and pottery concentrations will not be considered as likely burial sites unless future research shows a definable pattern of burial inclusions in such areas.

For all projects: Prior review at the HRD of a project proposal and implementation of measures approved by the HRD for the search for historic properties of all kinds, including archaeological

burials, shall be considered reasonable and good faith effort on the part of the agency or developer carrying out that search.

II. Avoiding Disturbance Where Possible.

BURIALS. While all human remains should receive respect and dignity when discovered, the terms of the law are specific in requiring avoidance of disturbance of burials. In archaeological sites, it is not uncommon to discover isolated fragments of bone or teeth which have apparently been mixed in the general midden, and not part of a specific burial feature or deliberate placement in the past. The Department does not believe the intent of the law is to require users of land to attempt to leave in place these isolated bits of human remains which may occur in archaeological deposits. For purposes of the burden of avoidance, a burial is any archaeological feature containing human remains in which the circumstances of the feature make it reasonable to infer that the remains were deliberately placed there during the historic or prehistoric past.

Burials may contain only parts of a complete skeleton, fragmented bones, bones or fragments mixed from several individuals, or bones removed from their original place of interment to a secondary one. However, the presumption of deliberate placement within a feature shall determine the treatment of the remains as a burial, the disturbance of which is to be avoided. Isolated remains; disarticulated remains in no discernible pattern or feature shall not be considered as burials, but are still to be accorded respect and dignity.

Unprovenanced human remains, and remains which are not found in burials. Human Remains found where they cannot be accurately assigned an archaeological context, or otherwise situated so that they cannot be considered burials, shall receive respect and dignity through:

1. Careful retrieval and documentation.
2. Subsequent interment with any burials also disturbed by the project in question, if any.

Circumstances justifying disturbance or removal of a burial.

1. Where there is no feasible and prudent alternative to a project design which entails the disturbance of archaeological burials, the project may be approved so long as the project includes the orderly retrieval, documentation, and reburial of the remains necessarily disturbed by it. The burden of showing no feasible or prudent alternative to the disturbance is on the developer or agency proposing the project.

2. Where an agency or developer has received approval for a project design based on reasonable and good faith efforts to locate and avoid disturbance to burials, but during implementation encounters previously un-located burials, the agency or developer should consult with the GHPO to determine if there are feasible and prudent measures available for avoiding further disturbances but within the general project design. If so, these are to be incorporated into the project implementation. If not, the removal of the burials may proceed with proper archaeological documentation, and provision for re-burial.

3. Where an agency or developer has not completed reasonable or good faith efforts to locate and avoid burials, the HRD shall request consideration of project re-design if needed to avoid disturbances as the strongly preferred course of action. The Historic Resources Division will not normally allow advanced state of project design as a justification for removal of burials if reasonable efforts to locate them would have made avoidance of disturbances possible through use of alternate designs.

III. OVERLAPPING BURIALS

In archaeological sites, it is frequently the case that burial features overlap. It is also a frequent and recurring circumstance that a proposed project will necessarily affect only one (or a few) of a set of overlapping burials, but disturbance of the others would be due solely to efforts to remove the disturbed ones.

In these cases, the requirement to remove the burial which must be disturbed conflicts with the requirement to leave the overlapped burial undisturbed. Respect and dignity should be accorded to the first burial by efforts to make complete recovery and reburial of substantially the complete burial. Respect and dignity for the overlapping burials requires efforts to avoid disturbing them as well, but to also accord them a complete recovery and reburial if the disturbance is unavoidable. These conflicting requirements shall be resolved through application of the following guidelines:

1. Where all of the first burial can be recovered with only minimal disturbance or intrusion of the overlapped burial, the overlapped burial will be left in place with those parts which are disturbed to be replaced as closely as possible to their original locations, but with a token that indicates the date of the disturbance.

2. Where the first burial cannot be recovered without substantial disturbance to an overlapped burial, the overlapped burial shall also be recovered as if it, too was necessarily disturbed by the project.

It remains the primary responsibility of the agency or developer

whose project necessitated the disturbance of burials to coordinate all matters regarding the implementation of the removal of burials and coordination of this with other project considerations.

IV. REBURIAL GUIDELINES

A. Burials and human remains which have to be removed from original locations should be reburied in a location as close as possible to the original locations. Where project circumstances allow, this area should be within the bounds of the original project.

Reburial should be:

1. In sealed containers. Each container should have information regarding the original location of the burial inscribed on it, and included within it. More than one individual may be included within a single container, but remains which were in separate features in original locations must be separated within the container as well.
2. In a memorial location which is publicly accessible and includes a plaque or marker.
3. There shall be a solemn ceremony when the remains are actually placed within the reburial location, and a dedication ceremony when the area is made available to the public for visitation and commemoration. The second ceremony must be open to the public for attendance.
4. There shall be a photographic record made of the remains being placed within the containers, of the placement in the reburial location, and both solemn ceremonies.

B. Where respectful and dignified reburial within the project area and near the original location is not possible, the agency or developer responsible for the removal of the burial may make application to the Department of Parks and Recreation for inclusion of the remains within the Naftan Maiñana-ta. The developer or agency will be assessed a fee reflecting the actual costs of accomplishing the reburial within the Naftan Maiñana-ta, including appropriate public ceremonies.

RESEARCH GUIDELINES

Both statute and executive order require that research on recovered human remains be at a minimal level, specifically mentioning the goals of ascertaining ethnic and cultural affinities and "important" research questions. An earlier public law, still in effect, also mentions a public right to the results of scientific

research on all classes of archaeological materials.

To adequately address definition of cultural and ethnic affinity throughout the prehistoric period, a reliable set of measures and observations is needed for comparison with those from other potentially affiliated populations. Similarly, many important research questions relating to prehistoric practices and lifestyles require adequate data to be reliably addressed.

non-destructive research. This is defined as research techniques and methods which can be carried out essentially with no destruction of the materials on which the study is based. Weighing, sorting, and various physical measurements and observations, among others, fall in this category.

Specified measures and observations which constitute a reasonably comprehensive description of a single complete human skeleton have been published by a number of osteological authorities. The sets of measures and observations in the sources following are to be considered as the standard reference set of measurements and observations for recordation of archaeological burials on Guam.

Fragmented skeletal remains. Archaeologically recovered skeletal remains are frequently incomplete and fragmented. In these cases, some of the reference set of measurements can only be recovered after reconstructing the fragments into a more complete bone. Reconstruction should be carried out only where readily apparent "joins" are available and/or where the measurement recoverable through the reconstruction is especially strategic for comparative purposes.

Reference measurement sets:

Cranial Metrics:

As recommended by the Skeletal Database Committee of the Paleopathology Association in 1991. (Attachment 1)

Cranial Non-metrics:

As recommended by the Skeletal Database Committee of the Paleopathology Association in 1991.

Infra-Cranial Metrics:

As recommended by the Skeletal Database Committee of the Paleopathology Association in 1991.

Infra-Cranial Non-Metrics:

As described in accompanying manuscript by Dr. Gary Heathcote, Ph.D., University of Guam. (Attachment 2)

Due to characteristics which have been found in prior studies to be of specific interest and application to the study of prehistoric Chamorro populations, standard documentation should also include a specific suite of measures and observations related to cranio-facial configuration and corresponding infra-cranial muscle attachments. (see attachment 3). Where the more developed muscle attachments are evident in these special characteristics, specific photographic documentation of these features should be made of them in addition to the standard photographic documentation as listed by the Skeletal Database Committee of the Paleopathology Association.

In addition to the measurement and observation sets listed above, the Skeletal Database Committee recommendations also include standards for estimating age, sex and other characteristics of the person to whom the skeleton belonged. Observations recorded should be consistent with these standards as well.

destructive research. This is defined as a research technique or method which entails physical or other destruction of all or part of the bone materials used in the technique. Examples include radiocarbon dating, stable isotope ratio analysis, and in some cases, extraction of DNA for replication and comparison. Any destructive research on human remains must be specifically and explicitly requested and approved by the Guam Historic Preservation Officer. Such requests must detail the destructive technique being proposed, the specific importance of the research results which may be obtained, and the potential of alternate methods to supply information regarding the same research topics. The GHPO may approve such requests when the research questions are important, when there are no alternative means of answering the research questions, and the research has been well-framed to minimize the destruction involved in reaching a reliable answer to the research question. The GHPO shall disapprove such requests when there are feasible alternatives for obtaining relevant answers to important research topics, when the proposed research is vague and/or poorly justified, or when the proposed amounts of destruction are higher than necessary for reliably addressing the questions.

Decisions (either approving or disapproving) on any request for destructive analysis will be reported to the Guam Historic Preservation Review Board by the GHPO.

Electronic Records Formats

The recommendations of the SDC also include provision for storage of accumulated records regarding skeletal data in electronic format. At the present time, the GHPO will accept electronic data in the form of 3.5" disks compatible with MS-DOS operating systems. Preferred application formats for tables of information are:

1. DBase III+ file, with key to coding structure included on disk as a text or ASCII file.
2. Wordperfect 5.1 document file.
3. ASCII text

Since these three file formats are widely used by many applications, data in this format should be relatively easy to disseminate to interested researchers.

RESERVATION OF REMAINS FROM REBURIAL

Public Law 21-104, which establishes the Naftan Maiñana-ta, also mentions in one section that government agencies may on occasion hold human remains for "historical, archaeological, scientific, or other valid purposes", but without further specification of these purposes. The following circumstances would generally fall within the valid purposes exception.

1. Human bone which evidences use for non-mortuary purposes in pre-historic context. This would primarily include spearpoints, needles, and other artifacts made from human bone material.
2. Reference type collections. Reservation for type collections will be considered where the existence of the type collection can:

increase the reliability and effectiveness of subsequent studies,

decrease the need for use of destructive research techniques in subsequent studies,

be made with small overall volumes of materials.

When an agency has other potentially valid reasons for holding human remains from archaeological sources, the agency should state those reasons to the Department of Parks and Recreation. The Department will either concur, object, or accept with additional conditions.

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er subject to the statutory control of the Governor as the Commander-in-Chief.

5. The Director, Bureau of Budget and Management Research is authorized to expend the total amount of not more than Two Hundred and Fifty Thousand Dollars (\$250,000.00) from outstanding appropriations within the General Fund for use by the Guam National Guard, Guam Police Department and Guam Fire Department for the cost of personnel, equipment and supplies needed to search for and rescue the two men.

6. Funds may be used for all expenses incurred on or after September 18, 1989.

7. The authorization for the certification, approval and expenditure of necessary funds shall be this Executive Order, subject only to the exhaustion of identified funds.

8. Emergency procurement may be resorted to for the purposes of this Order.

SIGNED AND PROMULGATED at Agana, Guam, this 19th day of September, in the Year of Our Lord, Nineteen Hundred and Eighty-Nine.

/s/ Frank F. Blas
FRANK F. BLAS
Governor of Guam,
Acting

COUNTERSIGNED:

/s/ Joe T. San Agustin
JOE T. SAN AGUSTIN
Lieutenant Governor of Guam,
Acting

EXECUTIVE ORDER NO. 89-24

REGARDING POLICIES FOR DISPOSITION OF
ARCHAEOLOGICALLY RECOVERED HUMAN REMAINS

WHEREAS, unmarked human remains are from time to time discovered and salvaged in the course of archaeological activities; and

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WHEREAS, such remains may be of persons with different cultural associations; and

WHEREAS, study of these remains is desirable for the purposes of ascertaining actual cultural associations as well as to gain knowledge of past cultures and events; and

WHEREAS, all human remains should be treated with dignity and respect consistent with the cultures of which they were members; and

WHEREAS, the Territory of Guam stands in need of a consistent policy regarding the disposition of such remains which are discovered in the course of both government projects and private developments with governmental approvals or licenses.

NOW, THEREFORE, I, JOSEPH F. ADA, Governor of the Territory of Guam, by the authority vested in me by the Organic Act of Guam, do hereby order:

The declared policy of this Territory regarding unmarked human remains found in archaeological context is:

1. That burials be left in place undisturbed to the extent practical.

2. That all government agencies, bureaus, departments and commissions and private developers who need licenses, permits or other assistance from the government make reasonable and good faith efforts in consultation with the Guam Historic Preservation Officer to locate such burials that may be affected by their actions or developments early in the planning process.

3. That if such burials cannot practically be left undisturbed, removal shall be done with proper archaeological methods and documentation.

4. Scientific, medical or other study shall be restricted to the minimum necessary to ascertain cultural or ethnic associations, and to address significant research questions.

All research proposals regarding such remains must be adequately justified in terms of standards used by the Department of Parks and Recreation for archaeological data recovery projects.

5. In the absence of expressed preferences otherwise by persons with ascertainable relationships to the specific remains involved or other justifying circumstances, re-interment in an appropriate and respectful manner is to be considered the normal treatment of human remains removed from their original burial locations.

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6. Such re-interment shall normally be in sealed containers with information regarding the original location and circumstances marked on the outside of the container and included within the container.

7. The Director of the Department of Parks and Recreation shall designate a location within the Territorial Park System as a location for re-interments of such removed human remains, and shall cause an appropriate memorial to be erected at the location.

8. Removal, examination and re-interment shall be at the expense of the government agency whose project necessitates the removal, or of the developer whose project requires governmental licenses, permits or assistance.

9. The Department of Parks and Recreation may issue rules and regulations to further implement these policies in an orderly and consistent manner.

Signed and promulgated at Agana, Guam this 25th day of September, 1989.

/s/ Joseph F. Ada
JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:

/s/ Frank F. Blas
FRANK F. BLAS
Lieutenant Governor of Guam