

Martin O'Malley
Governor

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Lt. Governor



**Maryland Commission
on Indian Affairs**



**Maryland Department
of Planning**

**Working Group on Native American Human Remains
Statement of Principles**

September 24, 2009

The Working Group is comprised of ten individuals, five designated by the Maryland Commission on Indian Affairs, and five designated by the Maryland Historical Trust. The Working Group has been established by the Secretary of Planning to consider options for an Appropriate Place of Rest for certain Native American Human Remains currently in the care of the Maryland Historical Trust (see attached inventory, or the online database at the National NAGPRA – Native American Graves Protection and Repatriation Act – website, <http://www.nps.gov/history/nagpra/>). Documents related to the Working Group are available on the website of the Maryland Historical Trust at www.mht.maryland.gov (click on Archeology, then on Archeological Collections look under Appropriate Place of Rest for links to all related documents). For additional information, please contact Charlie Hall, Maryland State Terrestrial Archeologist, at 410.514.7665 or by email at chall@mdp.state.md.us, or Keith Colston, Executive Director, Maryland Commission on Indian Affairs, at 410.767.7631 or by email at kcolston@goci.state.md.us.

The Working Group has met eight times, beginning in October of 2009. The following bolded statements reflect a proposal supported by all designees to the Working Group. The public is invited to comment on these statements, or on any aspect of the Working Group's task. Public input is considered an integral part of this process. Input is being solicited through two open sessions scheduled in October 2009, and through the acceptance of written comments through November 3, 2009. Send written comments to Charlie Hall at the Maryland Historical Trust, 100 Community Place, Crownsville, MD 21032, or to Keith Colston at the Maryland Commission on Indian Affairs, 301 W. Preston St., Suite 1500, Baltimore, MD 21201, or to either by email (see above).

**PROPOSAL FOR THE DISPOSITION OF NATIVE AMERICAN HUMAN REMAINS
CURRENTLY IN THE CARE OF THE MARYLAND HISTORICAL TRUST.**

All remains will be placed in the ground in contact with the earth. ¹

The remains will be returned to the earth on lands in each of the four cardinal directions. For each selected site, a legal agreement will be put in place that protects: (1) the sites for respectful repose and from desecration, destruction, and misappropriation, (2) the Maryland Indian community's free expression of ceremony, and their control of access for ceremonial purposes, and (3) the State's interest in the remains. The sites may be on Federal, State, or private land. ²

The remains will be placed in the ground in conditions that resemble those of the original interment, which were conducive to their long-term preservation. ³

There is no objection to preserving the possibility of retrieval for repatriation. ⁴

The designees of the Maryland Commission on Indian Affairs (MCIA) are firmly opposed to accessing the human remains once in the ground for the purpose of study, and believe that their descendants will forever agree with them in this opposition. The designees of the Maryland Historical Trust believe that future advances in science may provide for significant discoveries including the possibility of obtaining information regarding cultural affiliation and cultural history of indigenous populations. In acknowledgement of these two perspectives, the Working Group agrees that the possibility of such access for study may be preserved provided that Maryland regulations are changed to give the Maryland Indian community and the archeological community equal voice in reviewing and approving any such study.⁵

Notes:

¹ At the June 25, 2009 meeting, the Working Group agreed that the remains will be returned to the ground, and placed in contact with the earth.

² At the June 25, 2009 meeting, the Working Group agreed that the remains would be returned to the ground in protected locations. At the July 16, 2009 meeting, the Working Group considered the meaning of the term “protected”, and explored various legal agreements (easement, lease, etc.) that could be used to protect selected sites on Federal, State, or private lands. At the August 6, 2009 meeting, the Working Group agreed that State control could be preserved. Preserving State control avoids conflicts with State (State Finance and Procurement Article, § 5A-339 (b)) and Federal (NAGPRA, 25 U.S.C. 3005) law.

³ At the August 6, 2009 meeting, the Working Group reviewed State law that defines the Appropriate Place of Rest as one that is conducive to long term preservation (COMAR 34.04.07.02(B)(2)). It was noted that the original burial locations, where the remains had been preserved in the ground for hundreds of years prior to their retrieval, could be defined as conducive to long term preservation, and the Working Group agreed that the sites selected for disposition of the remains would be like the original locations in this respect. Maintaining an environment that is conducive to long-term preservation avoids conflicts with State law, and may be important to the NAGPRA Review Committee, whose duties (25 U.S.C. § 3006(C)(9)) include “making recommendations, if appropriate, regarding future care of [human remains] which are to be repatriated.”

⁴ At the August 6, 2009 meeting, the Working Group reviewed State and Federal law that protects the rights of lineal descendants and culturally affiliated Tribes to make a claim for repatriation of remains, and agreed that possibility of retrieval for repatriation, should a recognized Tribe make a legitimate claim under NAGPRA, or as allowed by State law (SF § 5A-339(b)(2), COMAR 34.04.07.06), could be preserved. It was also noted that under the current state regulations the Maryland Commission on Indian Affairs has a review and comment authority over any repatriation requests (COMAR 34.04.07.07). Preserving the possibility of retrieval for repatriation avoids conflicts with State and Federal (NAGPRA) laws.

⁵ Preserving the possibility of access for study avoids conflicts with State statute (SF § 5A-339 (c)(1)), so reburial could proceed without a change in legislation. At the January 31, 2009 meeting it was proposed that State regulations (COMAR 34.04.07.11 and .12) be changed to redefine the review process for study proposals giving the Maryland Indian Community and the archeological community equal voice. While the details of such a regulatory rewrite would be worked out later, the possibility of redefining the Burial Sites and Object Committee’s duties (COMAR 34.04.06.10) to include this review was discussed at the August 6, 2009 meeting. All were in agreement that, under these circumstances, retaining the possibility of retrieval for study was possible.

MHT Native American Human Remains Inventory

County	Site Number	Site Name	Temporal Context	Archeological Culture	Dates	Historic Group	Number of Individuals
Allegany	18AG119	Cresaptown	Late Prehistoric	Page	900-1400 A.D.	unidentifiable	23
Cecil	18CE29	Hollingsworth	Unknown	unknown	unknown	unidentifiable	1
Frederick	18FR14	Biggs Ford	Late Prehistoric	Keyser	1200-1450 A.D.	unidentifiable	19
Frederick	18FR17	Nolands Ferry	Late Prehistoric	Page	900-1400 A.D.	unidentifiable	4
Frederick	18FR18	Rosenstock	Late Prehistoric	Shepard	900-1400 A.D.	unidentifiable	1
Garrett	18GA	Friendsville	Late Prehistoric	Monongahela	900-1200 A.D.	unidentifiable	5
Garrett	18GA27	Fike Mounds	Late Prehistoric?	Woodland?	unknown	unidentifiable	2
Garrett	18GA35	Ross Farm	Late Prehistoric?	Woodland?	unknown	unidentifiable	1
Garrett	18GA54	Folly Run Mound	Late Prehistoric	Woodland?	unknown	unidentifiable	2
Garrett	18GA?	None	Unknown	unknown	unknown	unidentifiable	1
Kent	18KE12	Bramble/ Tolchester I	Late Prehistoric?	Woodland?	unknown	unidentifiable	1
Montgomery	18MO20	Selden Island I	Late Prehistoric	Shepard	900-1400 A.D.	unidentifiable	15
Montgomery	18MO3	Shepard	Late Prehistoric	Shepard	900-1400 A.D.	unidentifiable	2
Prince George's	18PR8	Accokeek Creek	Late Prehistoric	Piscataway	1300-1650 A.D.	Piscataway	36
Queen Anne's	18QU69	Bryan 2	Unknown	unknown	unknown	unidentifiable	1
Talbot	18TA3	Oxford	Middle Woodland	Webb Phase	300-900 A.D.	unidentifiable	4
Worcester	18WO23	Nassawango	Early Woodland	Adena	800-200 B.C.	unidentifiable	4
Virginia	44LD?	Heaters Farm	Unknown	unknown	unknown	unidentifiable	6
VA? MD?	?	unknown - Potomac	Unknown	unknown	unknown	unidentifiable	12
Total:							140
Piscataway:							36
unidentifiable:							104