



Maryland DEPARTMENT OF PLANNING MARYLAND HISTORICAL TRUST

Options for Transferring Non-Native Human Remains Out of the Custody and Control of MHT

Under the revised Regulations for the *Transfer of Human Remains and Associated Funerary Objects*, there are three ways through which Non-Native human remains that are in MHT's possession can be transferred from the MAC Lab either into the care of others or to a burial setting. These three options and associated considerations are presented in priority order below:

Option 1: On request, MHT can transfer human remains to an individual if the individual is a lineal descendant. Once the transfer is complete, the individual is free to handle disposition of the remains as the individual deems fit and appropriate.

Considerations: The regulations require that this request must be made in writing and supported by evidence and documentation establishing the validity of the request. Due to the nature (age, condition, fragmentary nature of skeletal components) of most Non-Native human remains in the custody and control of MHT, successful identification of lineal descendants is expected to be unlikely.

Option 2: On request, MHT can transfer human remains to a group, organization, or entity that can establish a shared cultural affiliation with the remains. In general, a "cultural affiliation" is a shared group identity that may be reasonably traced historically between present day people or groups and an earlier identifiable community. Once the transfer is complete, the transferee is free to handle the disposition of the remains as the transferee deems fit and appropriate.

Considerations: The regulations require that this request must be made in writing and supported by evidence and documentation establishing the validity of the request.¹ Any action taken by MHT must be done in consultation with the applicable ethnic commission under the Governor's Office of Community Initiatives. In the case of remains of African descent, MHT would work with the Maryland Commission on African American History and Culture.

¹ Evidence of "cultural affiliation" may consist of, among other things, 1) genealogical and historical documentation, 2) church records, and 3) documentation tying families or groups of the present day to an earlier group or the site where the remains were disinterred. DNA testing is not required in order to establish "cultural affiliation".

Option 3: MHT can enter into a written agreement with an individual or entity to place the remains in a mutually agreed upon “appropriate place of repose,” as defined by the regulations and confirmed by MHT, on public (state or locally owned) or private lands (e.g. cemeteries associated with a church), but where the legal custody and control of the remains do not transfer out of MHT. Any such agreement, enforceable by MHT, would have to establish clear conditions for maintenance of the location by the private individual or entity such that the location remain an “appropriate place of repose.”

Considerations: Any action taken by MHT must be done in consultation with the applicable ethnic commission under the Governor’s Office of Community Initiatives. In the case of remains of African descent, MHT would work with the Maryland Commission on African American History and Culture. Since MHT is responsible for the security of any designated “appropriate place of repose” under state law, approving a location on lands not under the control of the MHT would require an arrangement by which MHT could directly provide security or delegate security to some other entity capable and willing to assume that responsibility for MHT.