



DEPARTMENT OF THE NAVY  
OFFICE OF THE CHIEF OF NAVAL OPERATIONS  
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WASHINGTON, DC 20350-2000

OPNAVINST 11170.2B  
N46  
2 Nov 2015

OPNAV INSTRUCTION 11170.2B

From: Chief of Naval Operations

Subj: NAVY RESPONSIBILITIES REGARDING UNDOCUMENTED HUMAN  
REMAINS

Ref: (a) 25 U.S.C. §3001  
(b) 54 U.S.C. §300101  
(c) 16 U.S.C. §470AA-MM  
(d) Sunken Military Craft Act of 2004, P.L. 108-375  
(e) 43 CFR 10  
(f) 36 CFR 60  
(g) E.O. 13175  
(h) DoD Instruction 4710.02, DoD Interactions with  
Federally Recognized Tribes, 14 September 2006  
(i) DoD Instruction 4710.03, Consultation with Native  
Hawaiian Organizations, 25 October 2011  
(j) SECNAVINST 4000.35A  
(k) SECNAVINST 11010.14A  
(l) OPNAVINST 5090.1D  
(m) NAVFACENCOM P-73  
(n) Unified Facilities Guide  
Specifications (UFGS) of May 2015

1. Purpose. To provide guidance regarding the discovery, handling, and disposition of undocumented human remains located above-ground, below-ground, or in association with structures such as aircraft or ships during Navy action or on Navy land, in compliance with references (a) through (d). This instruction is being reissued with a new date, updated version and signature authority to meet Chief of Naval Operations' age requirement for Office of the Chief of Naval Operations instructions.

2. Cancellation. OPNAVINST 11170.2A.

### 3. Background

a. References (e) through (n), section 01 57 20.00 10, paragraph 3.9, provide guidance to meet compliance requirements and streamline management of the remains. Human remains, associated funerary objects (i.e., items with the remains), cultural objects (i.e., culturally representative items), and historic wreck locations may be cultural resources as defined under references (a) through (f). References (h) through (l) clarify Department of Defense and Department of the Navy policies, procedures, and responsibilities when the military mission may impact undocumented human remains. Undocumented remains over 100 years of age are considered archaeological sites, but younger remains may also be an archaeological site if they meet the criteria in references (a), (b), and (d). Therefore, all locations with remains must be treated appropriately per references (a) through (d), and their implementing regulations, references (e) and (f). The discovery of undocumented remains and any subsequent actions, require that special procedures be followed, as specified in references (a) through (d). Furthermore, local and state laws may require notification of civilian law enforcement authorities upon discovery of undocumented remains to determine if a possible crime scene exists.

b. Undocumented human remains are typically in unmarked locations, i.e., lacking headstones or other markers, and not readily obvious. These types of locations may represent a point in a community, or on rare occasions, aircraft or ships, or remains of old hospitals or abandoned cemeteries which may contain remains of Native American, early settlers, or military or non-military personnel. Fragmentary human remains may also be encountered in previously disturbed soil and are also covered by this instruction. Documented cemeteries are covered by references (m) and (n), section 0157 20.00 10 paragraph 3.9, and are usually marked and separated from the surrounding area by some delineated boundary, and are identified by grave markers and written records. Maintenance of documented cemeteries is typically the responsibility of an installation public works office and relocation of documented cemeteries is covered by reference (m). Identification and return of Native American, Native Alaskan, and Native Hawaiian remains and cultural objects

are required by reference (a). Identification and return of remains is not required for other populations not defined in reference (a).

c. 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, this instruction creates no independent enforceable right to consultation or notice regarding any of the items or actions discussed in the responsibilities paragraph of this instruction.

#### 4. Responsibilities

a. The Chief of Naval Operations, Shore Readiness Division (OPNAV N46) must inform the Deputy Assistant Secretary of the Navy for Installations and Environment of any issues related to the discovery of undocumented human remains or related items per references (a) through (d) that have not been resolved through normal procedures by Commander Navy Installations Command (CNIC) regional commanders or the local facilities engineering command (FEC).

b. CNIC must be familiar with all references, ensure proper and timely execution of this policy, and forward reports of the discovery of human remains to OPNAV N46. Follow on reports will be expected until the remains are reinterred or repatriated following references (a) through (d).

c. Regional commanders, installation commanding officers, and Navy Bureau of Medicine and Surgery commanding officers must consider the possibility of encountering undocumented human remains when planning any ground disturbing action and follow procedures outlined in subparagraph 3e upon discovery of undocumented human remains.

d. All Navy-controlled locations with human remains must be treated with utmost respect, and where possible, protected from the impacts of Federal actions, per reference (b). If the military mission requires use of the land, documented cemeteries or undocumented human remains that are determined to not be part of a crime scene by law enforcement official and are determined by the designated technical experts to be of no archaeological interest, may be relocated following the requirements of

reference (m). Undocumented remains over 100 years of age must be treated as an archaeological resource following requirements in references (a) through (f). Local commands are authorized to make decisions regarding management of land containing burials per references (a) through (n), section 01 57 20.00 10, paragraph 3.9.

e. Regional commanders and installation commanding officers must:

(1) Ensure installation personnel, tenants, and non-installation personnel authorized to be on the installation are aware of this instruction.

(2) Stop work immediately upon discovery of undocumented human remains by project personnel. Personnel must notify Naval Criminal Investigative Service and the qualified cultural resource professional either on the staff of the responsible installation, region, or FEC. The qualified cultural resource professional must notify the Navy installation and region responsible for the location if not already notified, and if a contractor is involved in the discovery, the Navy contracting officer must be notified. If the discovery involves wrecked aircraft or ships, on land, in water or underwater, the qualified cultural resource professional must notify the Navy History and Heritage Command, per reference (d).

(3) If the human remains have a potential to be Native American, Native Alaskan, or Native Hawaiian as determined by the qualified cultural resource professional, implement consultation via the procedures of references (a) through (c), (e), (f), and (i).

(4) If the human remains are not part of a crime scene, ensure appropriate notification is given to the State Historic Preservation Officer, per reference (b).

(5) If the human remains are determined by the qualified cultural resource professional not to be Native American, Native Alaskan, or Native Hawaiian, consult with the interested parties regarding the identification, and cultural or historic significance, and as appropriate, assess the remains, any

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associated materials and the location for National Register of Historic Places eligibility per reference (b), and other applicable Federal, State, and local laws as required.

5. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy Manual 5210.1 of January 2012.

A handwritten signature in black ink, appearing to read "P. H. Cullom". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

P. H. CULLOM  
Deputy Chief of Naval Operations  
(Fleet Readiness and Logistics)

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