

Provisions Regarding Found Human Remains

The discovery and recovery of human remains is a sensitive issue, but one that is governed by provincial laws and process. Therefore, it is the responsibility of any individual encountering human remains to ensure that, upon discovery, actions are undertaken consistent with provincial legislation and policy. Failure to comply may result in legal action being taken.

This information is being provided to all persons conducting fieldwork under a Manitoba Heritage Permit. It outlines the Province of Manitoba's requirements and procedures consistent with *The Heritage Resources Act* (1986) and Manitoba's "*Policy Respecting the Reporting, Exhumation and Reburial of Found Human Remains*" (1987) to be followed in the event that human remains are discovered.

References herein to *The Heritage Resources Act* (1986) are not meant to supplant the *Act*, a copy of which may be obtained online at www.gov.mb.ca/hrb/act.html or from:

Queen's Printer, Statutory Publications
Lower level, 200 Vaughan Street, Winnipeg, MB R3C 1T5
In Winnipeg: (204) 945-3101 Toll free in MB: 1-800-321-1203
Email: statpub@gov.mb.ca

Responsibility Rests with the Historic Resources Branch

The Historic Resources Branch is responsible for the administration of *The Heritage Resources Act* (1986) and to oversee the disposition of found human remains of an archaeological nature from the moment of discovery. Accordingly, the protection, preservation and disposition of found human remains and associated heritage objects will be overseen by personnel designated by the Historic Resources Branch (*Burials Policy: Legal Provision G*).

Any human remains occurring outside recognized cemeteries may potentially be forensic in nature, that is, remains associated with past behaviors, actions or events which are a concern of other legal agencies (for example, missing persons). For this reason it is always advisable to notify the nearest police or RCMP detachment in addition to the Historic Resources Branch upon the discovery of human remains.

Definition of Human Remains

The Heritage Resources Act (1986), Section 43 (1) states that "human remains" means:

"remains of human bodies that in the opinion of the minister have heritage significance and that are situated or discovered outside a recognized cemetery or burial ground in respect of which there is some manner of identifying the persons buried therein."

Heritage Permits

Heritage Permits issued by the Historic Resources Branch are subject to prescribed terms and conditions, and unless specifically stated, do not permit the handling or disturbance or possession of human remains upon discovery:

The Heritage Resources Act (1986), Sections 53; 45; and 46 state:

- 53 No person shall search or excavate for heritage objects or human remains except pursuant to a heritage permit and in accordance with such terms and conditions as may be prescribed by the minister and set out in or attached to the heritage permit.
- 45 The property in, and the title and right of possession to, any human remains found by any person after May 3, 1967, is and vests with the Crown.
- 46 Every person who finds an object that is or that the person believes to be a heritage object, or remains that are or that the person believes to be human remains, shall forthwith report the find to the minister and shall not handle, disturb or do anything to the object or the remains except in accordance with such requirements as the minister may prescribe.

Manitoba's Burials Policy

In 1987, the Province of Manitoba approved the *Policy Respecting the Reporting, Exhumation and Reburial of Found Human Remains* (otherwise known as: Manitoba's "Burials Policy"). The *Burials Policy* establishes what is to be done upon discovery of found human remains in accordance with *The Heritage Resources Act* (1986). A copy of the *Burials Policy* will be provided upon request to the Historic Resources Branch.

The essentials of the *Burials Policy* constitute the best practice following discovery of human remains:

1. Unless unavoidable and necessary human remains are not to be removed from their original resting place.
2. When human remains are discovered a) all work ceases and the Historic Resources Branch is notified immediately; b) no further disturbance of the remains occurs until the arrival of personnel designated by the Historic Resources Branch.
3. Community consultation takes place before exhumation or removal of human remains or associated grave goods.
4. Personnel designated by the Historic Resources Branch shall carry out the exhumation, and as much as possible, out of the public eye.
5. Identification procedures will be undertaken only by personnel designated by the Historic Resources Branch.
6. Reburial of human remains when a First Nation is involved is arranged by the Aboriginal Liaison Officer of the Historic Resources Branch in conjunction with the community. Reburial in all other cases will be handled only by personnel designated by the Historic Resources Branch.

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