

HUMAN SKELETAL REMAINS AND CEMETERY PROGRAM



***2021-2023 Biennial Report
to the Legislature***

November 15, 2023



***Department of
Archaeology and Historic Preservation***

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Cover Illustration: *The State Physical Anthropologist with Swinomish and Tulalip Tribal Cultural Resource Members Investigating a Native American Burial in Island County.*



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Prepared by:

Guy L. Tasa, State Physical Anthropologist

Department of Archaeology and Historic Preservation

Allyson Brooks, Director

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COVER LETTER FROM DIRECTOR BROOKS

November 15, 2023

Senator Liz Lovelett, Chair
Senate Local Government, Land Use & Tribal Affairs Committee
233 John A. Cherberg Building
PO Box 40440
Olympia, Washington 98504-0440

Representative Bill Ramos, Chair
House State Government & Tribal Relations Committee
325 John L. O'Brien Building
PO Box 40600
Olympia, Washington 98504-0600

Dear Senator Lovelett and Representative Ramos:

Please find our report to the legislature regarding the activities performed under House Bill 2624 passed into law in 2008. Under this law, the Department of Archaeology and Historic Preservation (DAHP) is required to communicate biennially with the appropriate committees of the legislature regarding the numbers of inadvertent human skeletal remains discoveries and other associated activities performed under this law. The following summary and detailed report fulfill this statutory requirement.

In summary, DAHP has opened 183 human skeletal remains cases in the 2021-23 biennium. These cases have resulted in notifications by letter, as required under the law, to 43 affected tribes. Many of these cases have been determined to be Indian by the State Physical Anthropologist and have been or are being repatriated to those identified interested affected tribes.

In addition to the human skeletal remains program, DAHP is required under the new law to develop and maintain a centralized database and GIS layer of all known cemeteries and known sites of burials of human remains in the state of Washington. Currently, a total of 3,055 cemeteries and burial locations have been recorded.

A more detailed presentation of these activities follows this cover letter.

Sincerely,



Allyson Brooks
Director, Department of Archaeology and Historic Preservation

EXECUTIVE SUMMARY

This report was prepared in response to HB 2624 requiring the Department of Archaeology and Historic Preservation (DAHP) to communicate with the appropriate committees of the legislature regarding the number of inadvertent discoveries of human skeletal remains and other associated activities. A summary of the content of this report follows in bulleted points below divided into those regarding non-forensic human skeletal remains finds in the state and those associated with the building and maintenance of DAHP's Cemeteries and Burial Sites Database and GIS Layer:

Non-Forensic Human Skeletal Remains

- A total of 183 cases (representing at least 260 individuals) were opened in the 2021-23 biennium. Investigations of these cases entailed 866 field hours and 12,435 travel miles. This represents a nearly 200% increase in case load over previous biennia. Based on previous years DAHP anticipated around 52 cases per year or around one new case every five DAHP business days. Based on this year's case load we would expect around 92 cases per year or around one new case every three DAHP business days.
- Funds provided by the legislature allowed for the hiring of an Assistant State Physical Anthropologist in mid-2014 and their continued employment through 2023.
- Currently there are 287 open cases and 565 closed cases. A total of 435 closed cases lack a critical case report.
- Non-Forensic remains come primarily from northwestern counties (King, Island, Pierce, San Juan, Snohomish, Clallam, and Whatcom) and approximately 10% of them are inadvertent finds for the 2021-23 biennium.
- Non-forensic cases are typically identified as Indian (54% in the 2021-23 biennium) but remains identified as non-Indian increased substantially during 2021-23 biennium (44%).
- DAHP sent 2,224 certified notification letters regarding non-forensic human skeletal remains to tribal chairs and appropriate cemeteries in the 2021-23 biennium and an estimated additional 4,448 letter copies to tribal cultural resource groups. Overall DAHP performance for letter notification timeliness is at 30% for the 2021-23 biennium because of the substantial increase in case load for the 2021-23 biennium.
- Dispositions for 36 human skeletal remains cases were completed in 2021-23 biennium.
- DAHP's secure human skeletal remains laboratory houses 295 cases representing at least 424 individuals currently going through the notification and disposition process. Funds provided by the legislature allowed for the reburial of 44 non-Indian cases representing at least 83 individuals in early 2017 and additional remains will be reburied in the coming months, filling to capacity DAHP's communal plot. Additional funds will be needed to complete a reburial of non-Indian cases soon.
- DAHP funded one application in the 2021-23 biennium to the Skeletal Human Remains Account for a total of \$27,916.80. The fund has been effectively emptied and replenishment of it is being sought in the current budget cycle.

Cemeteries and Burial Sites

- Retirement of the Cemetery Cartographer and loss of the position through budgetary cuts occurred in 2014 (duties taken over by the State Physical Anthropologist and Assistant State Physical Anthropologist).

- A total of 16 cemeteries and burial sites were added into the Cemetery database and GIS layer in the 2021-23 biennium.
- DAHP has granted certificate authority to care and maintain abandoned cemeteries to two non-profits and one local government in the 2021-23 biennium.
- In 2016 the Historic Cemetery Preservation Capital Grant was created within DAHP to fund preservation projects in historic cemeteries. Funds awarded by the legislature in 2021-23 biennium provided grants to 13 cemeteries totaling \$280,000. The State Physical Anthropologist and Assistant State Physical Anthropologist provide cemetery and burial site information to the cemetery grant committee and to applicants.

LEAD STAFF

Dr. Guy L. Tasa

State Physical Anthropologist

Dr. Jacqueline M. Berger

Assistant State Physical Anthropologist



INTRODUCTION

This report was prepared in response to HB 2624 requiring the Department of Archaeology and Historic Preservation (DAHP) to communicate with the appropriate committees of the legislature regarding the number of inadvertent discoveries of human skeletal remains and other associated activities pursuant to this act.

House Bill 2624, presented in 2008, clarified the process for notification upon discovery of human skeletal remains. The bill was introduced to the Senate in January of 2008 and signed into law by Governor Christine Gregoire on March 31, 2008. The bill amended and added new sections to existing state laws including RCW 68.50 (Human Remains), RCW 27.44 (Indian Graves and Records), RCW 68.60 (Abandoned and Historic Cemeteries and Historic Graves), RCW 43.334 (Department of Archaeology and Historic Preservation), RCW 27.34 (State Historical Societies – Historic Preservation), and RCW 27.53.030 (Definitions).

A major goal of the new legislation was to clarify the notification procedures when human skeletal remains are discovered for both Indian and non-Indian remains. As outlined in the new law, it is the duty of all citizens who know of the existence of human skeletal remains to notify both local law enforcement and the local coroner or medical examiner (Figure 1). Coroners and medical examiners have five days, if possible, to determine whether remains reported to them are forensic (related to a modern unexplained death) or are considered non-forensic. If the remains are non-forensic, then DAHP must be notified by the county coroner/medical examiner within two business days. The DAHP receives jurisdiction over non-forensic human skeletal remains until provenance is established.

Once DAHP is notified that remains are non-forensic, DAHP must notify any appropriate cemeteries and the tribal chairs and cultural resource staff of all affected tribes within two business days. The State Physical Anthropologist is also required to determine if the remains are Indian or not and communicate that finding with all affected tribes and any appropriate cemeteries within two business days. If the remains are determined to be Indian, then the tribes have five business days to respond to DAHP as to their interest in the remains.

HB 2624 also required the director of DAHP to appoint a State Physical Anthropologist. This was accomplished in August of 2008. The primary responsibility of the State Physical Anthropologist is the investigation, preservation, and, when necessary, the removal and reintering of discoveries of non-forensic human skeletal remains. These duties also include the notification of appropriate cemeteries and affected tribes when non-forensic remains are discovered. In addition, the State Physical Anthropologist is available to any local

government or tribal government to assist in the determination of whether discovered skeletal remains are forensic or non-forensic.

The new legislation also created the Human Remains Assistance Account in the custody of the State Treasurer. This account was set up to pay for archaeological determinations and excavations of inadvertently discovered skeletal human remains and for their removal and re-interment when necessary. The Director of DAHP, or their designee, can authorize expenditures from the account.

Lastly, the new legislation required the development and maintenance of a centralized database and geographic information system spatial layer of all known cemeteries and known sites of burials of human remains in Washington State by DAHP.

What follows is a detailed description of the activities performed under the new legislation since its effective date and since DAHP's last biennial report prepared in November of 2021 for the 2019-21 biennium.

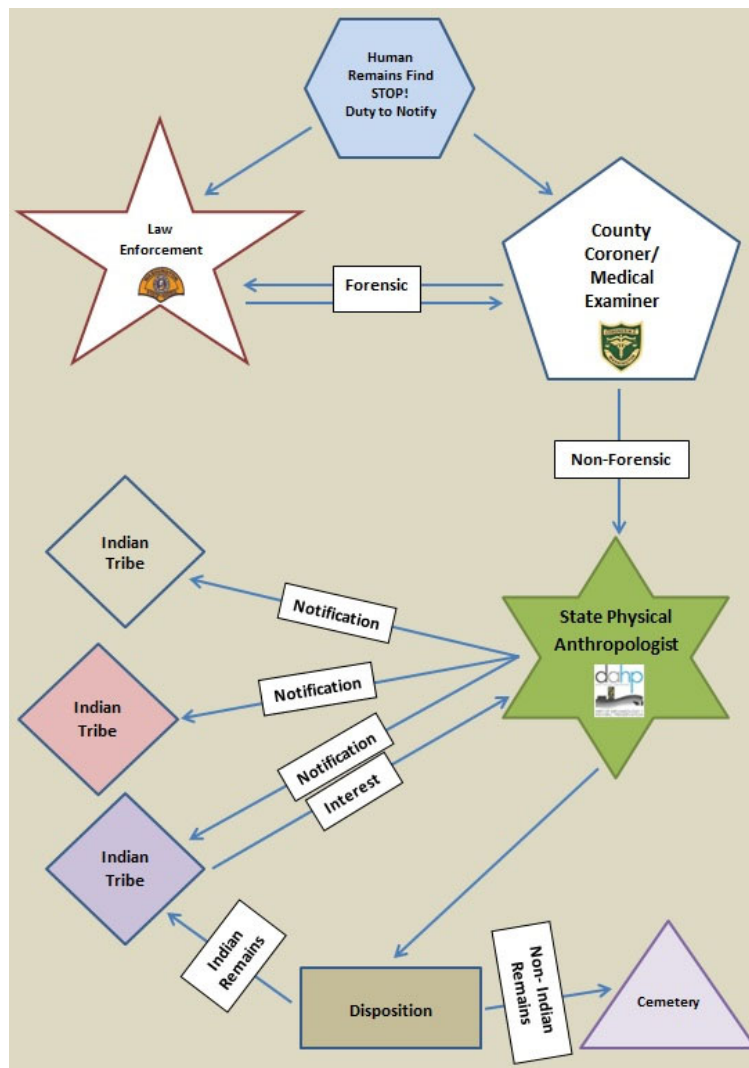


Figure 1. Flow Chart Illustrating Washington's Human Skeletal Remains Process.



NON-FORENSIC HUMAN SKELETAL REMAINS CASES

Since the appointment of the State Physical Anthropologist in August of 2008, DAHP has opened and investigated 852 non-forensic human skeletal remains cases. One hundred and eighty-three cases (representing at least 260 individuals) were opened in the 2021-23 biennium, an increase of nearly 200% over previous biennia. Based on numbers from previous biennia, DAHP anticipated around 52 non-forensic human skeletal remains cases per year, averaging about one new case every five DAHP business days. Based on the case numbers from the 2021-2023 biennium those estimates have risen to around 92 cases per year and a new case every three business days.

CASE STATUS, CASE REPORTS, AND PROJECTED BACKLOG

A total of 287 human skeletal remains cases were open and 565 were closed by the end of the 2021-23 biennium. Closed cases include cases where the remains were repatriated to tribes for reburial, cases of non-Indian remains that were reburied by DAHP, cases where remains were reburied or left in place, cases that fell under federal jurisdiction (Native American Graves Protection and Repatriation Act) and were transferred to the respective federal agencies, cases returned to the respective counties for forensic investigation (originally determined to be non-forensic), cases where the human skeletal remains could not be located, and cases where remains were determined to be not human. Open cases include cases awaiting transfer of jurisdiction to DAHP; cases in the notification, determination, or repatriation process; cases of non-Indian remains awaiting disposition and held at DAHP; and cases held at DAHP at the request of the interested affected tribes until repatriation.

A necessary component of the status of a closed case is a written case report for each non-forensic human skeletal remains case investigated. These reports summarize the circumstances surrounding the discovery of the remains, a summary of the evidence used and the results of the State Physical Anthropologist's statutory requirement for a determination of ancestry, the relevant tribes notified and identified as interested affected tribes, and the final disposition of those remains. Case reports also contain site forms or site update forms that document the find in DAHP's archaeological database and GIS layer. Currently, 130 cases have final reports and 722 have case reports in draft form only or lack a case report entirely. Some small progress is made each

biennium toward the completion of case reports, but the volume of incoming cases is such that little time can be devoted to this task.

A further subdivision of closed cases includes cases for which a disposition and case report have been completed or a complete draft has been completed and cases for which a disposition has been completed but lack the critical case report even in draft form. By the end of the 2021-23 biennium, 130 closed cases have a final report or final draft (15% of the total number of cases) and another 36 open cases have a final report or a draft (4% of the total number of cases). A total of 686 cases still lack a final case report even in draft form (81% of the total number of cases).

The numbers are, however, an improvement over earlier biennia. This is partly attributable to funding provided by the legislature for the hiring of an Assistant State Physical Anthropologist in July of 2014 for a year, continued funding in the 2015-17 biennium for an additional two years, and the continued funding into the current biennium. The Assistant State Physical Anthropologist has been able to complete draft reports for an additional 104 cases that wouldn't have been otherwise completed, in addition to assisting the State Physical Anthropologist on new human remains cases. This number more than doubles the number of reports completed and has resulted in nearly finishing all of the case reports for cases originally opened in 2008, a third of the cases opened in 2009, and significant numbers for cases from the following years. The task of completing case reports in a timely fashion needs much improvement, particularly considering the recent substantial case load seen in the 2021-23 biennium. Continued funding for the Assistant State Physical Anthropologist position beyond 2023 is required to maintain some level of report completion but further improvement is needed, and a decision package has been submitted to fund a second Assistant position in the upcoming budget.

REPORTING COUNTIES AND CASE TYPES

A critical component of the process codified into law in 2008 is the reporting of non-forensic human skeletal remains to DAHP by the respective county coroners and medical examiners. Figure 2 illustrates the distribution of reported non-forensic human skeletal remains cases by county across the state through the end of the 2021-23 biennium. The majority of reported non-forensic cases originates from the western half of the state, particularly King, Whatcom, Island, San Juan, Snohomish, Pierce, and Clallam counties and this is still the trend in the current biennium with the exception of a large number of cases from Kittitas and Spokane County. These represent some of the most populated counties where relatively more development occurs, and consequently more human remains are encountered and reported by the respective counties. Two counties (Ferry and Pend Oreille) have yet to report any non-forensic human skeletal remains cases to our office as of end of the 2021-23 biennium.

Since 2008 most of the human remains cases reported to DAHP have been cases held by the counties since before the passage of the new legislation – referred to as “Previous Finds”. Although these kinds of human remains cases were anticipated, the large numbers involved were unanticipated. With the closing of the 2021-2023 biennium that trend has ended and now “New Finds” make up the largest case type followed by “Inadvertent Finds” and “Eroding Finds” (Figure 3). Although the last biennial report suggested that the counties had divested themselves of pre-law non-forensic human skeletal remains cases, these case types continue at significant percentages (18%) in the current biennium.

County medical examiners' and coroners' offices known to have completely divested themselves of past (pre-legislation) non-forensic human skeletal remains cases include Benton, Clark, Grays Harbor, Island, Jefferson, King, Pierce, San Juan, Snohomish, Walla Walla, and Whatcom. The status of other county coroners' offices and medical examiners' offices is currently unknown, although yearly communications with the counties informing them of the law change has occurred since 2009. A presentation by the State Physical Anthropologist to the Washington Association of County Medical Examiners in Tacoma in 2015 and Spokane in 2008 helped to further educate Washington's county coroners and medical examiner personnel on the unified process for non-forensic human skeletal remains.

In addition, it has become clear that other agencies within the counties (particularly law enforcement) may also hold non-forensic human skeletal remains that were acquired before the change in law. In the past biennium, several law enforcement agencies have come forward to turn non-forensic skeletal remains over to DAHP for handling and disposition. A goal for the future should be a concerted effort to communicate with the various law enforcement agencies across the state to identify any possible non-forensic human skeletal remains requiring reporting to DAHP that are held outside of the various county coroner's offices. This will undoubtedly extend the trend in these case types beyond the next few years.

"Inadvertent Finds" (human skeletal remains found during construction where none were previously indicated or anticipated) make up a significant number of human skeletal remains cases. This case type has decreased as a relative percentage (10%) in the 2021-23 biennium (Figure 3). Although inadvertent finds occur throughout the year, they are particularly frequent during Spring and Summer when construction is at its peak throughout the state and, consequently, the likelihood of finding human skeletal cases of this case type increases significantly (Figure 4).

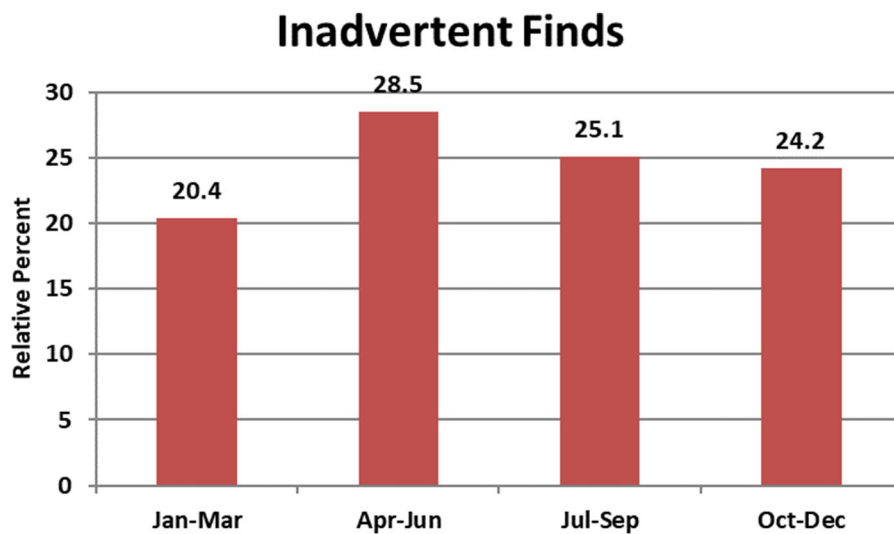


Figure 4. Relative Percentage of Inadvertent Finds by Quarter.

Another case type that has seen increasing numbers and has in the last few years exceeded the number of all other case types is that of “New Finds”. These cases include skeletal remains turned in by or confiscated from private individuals during law enforcement investigations. Since 2008, law enforcement has become more familiar with the state law and has seen that many human skeletal remains found during the course of law enforcement activities are properly handled through the process outlined in state law. In addition, publicity of many of the cases handled under the process has led to numerous private parties coming forward to turn in human skeletal remains that they have had in their possession. Cases of this type make up 57% of the cases in the 2021-23 biennium (Figure 3). The trend for these kinds of cases indicates that they have currently exceeded those of all other case types and will likely continue to comprise a significant proportion of the cases to come in future years.

Eroding human skeletal remains from archaeological sites also make up a significant number of the kinds of skeletal remains cases investigated. They account for nearly 15% of all the skeletal remains cases in the 2021-23 biennium (Figure 3). These cases are typically most common during the late winter and early spring months when the public frequents for the first time since the previous year the coastal and riverine areas of the state for recreation and, therefore, discover eroding human skeletal remains (Figure 5). The trend for these kinds of cases has slowly increased since 2008 and is now at an average of about eight cases per year.

Lastly, cases associated with pending archaeological excavations where there is a high certainty of encountering human skeletal remains generally make up less than 1% of the cases investigated. This continues into the 2021-23 biennium which saw no new cases of this type (Figure 3).

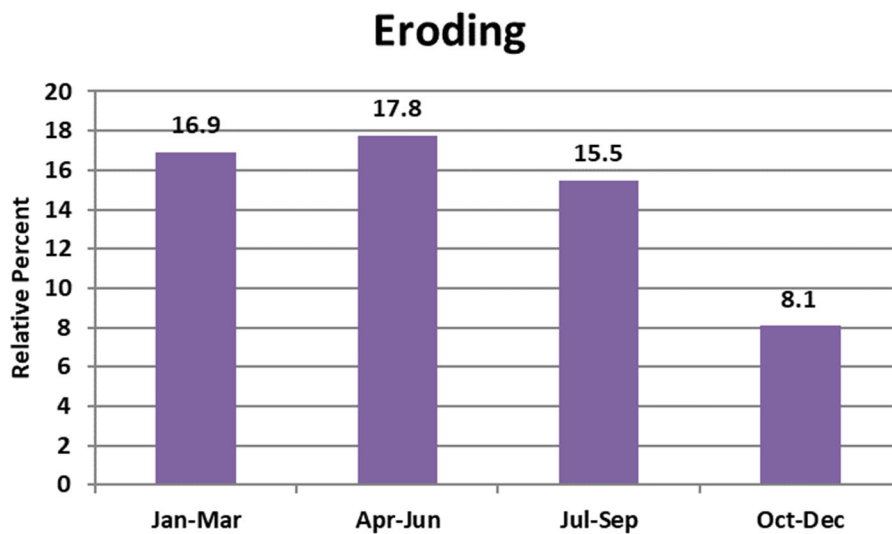


Figure 5. Relative Percentage of Eroding Finds by Quarter.

THE STATE PHYSICAL ANTHROPOLOGIST'S DETERMINATION OF ANCESTRY

Once reported to DAHP, the State Physical Anthropologist is required under RCWs 68.50.645, 27.44.055, and 68.60.055 to make a determination as to whether the skeletal remains are Indian or not. This is achieved through a detailed examination of the remains using standard osteological procedures for the inventory and the determination of ancestry. Other sources of information used to support a determination of Indian or non-Indian may include information about site location in the discovery area, archaeological context of the remains within the discovery area, associated artifacts, and information from previous archaeological investigations in the discovery area. This additional information supplements the documentation of the skeletal remains themselves to provide the best possible determination of ancestry using all available evidence.

Most of the human skeletal remains examined by the State Physical Anthropologist are identified as Indian. The remaining individuals are identified as non-Indian, indeterminate, forensic, or non-human. This trend continues into the current biennium (Figure 6) where remains identified as Indian are the most numerous (54% of the 199 individuals examined) followed by remains identified as non-Indian (44%), indeterminate (<1%), forensic (<1%), and non-human (1%). A 30% increase in the number of remains identified as non-Indian in the current biennium reflects an increase in the number of clinical remains being turned over the DAHP. Remains identified as forensic by the State Physical Anthropologist are returned to the respective counties for further investigation.

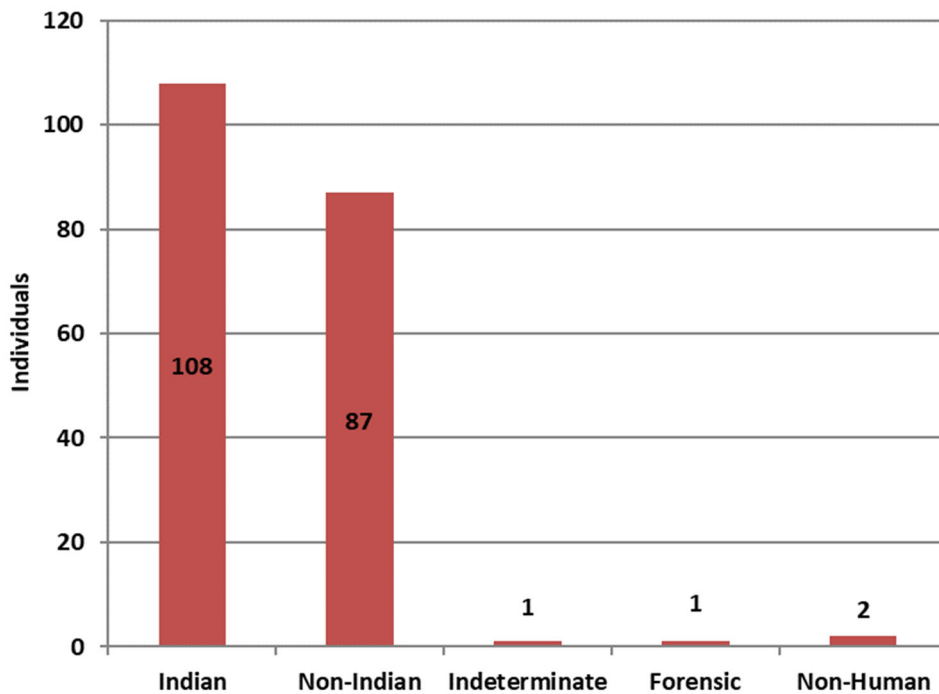


Figure 6. State Physical Anthropologist's Determination of Ancestry for the 2021-23 biennium.

REPORTED ORIGIN OF REMAINS

All inadvertent, eroding, and pending archaeological work case types are associated with skeletal remains found within the state of Washington. Many previous finds held by county coroners and new finds confiscated by law enforcement also originate from the state of Washington. These represent most of the non-forensic human skeletal remains handled by DAHP. However, a significant proportion of non-forensic human skeletal remains seized or turned into law enforcement reportedly originate from other states or other countries. These trends continue into the current biennium with 95% of the cases from the current biennium originating from Washington, 4% from other states, and 2% from outside of the country (Figure 7).

Other states identified as the origin for these remains have included Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Michigan, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, and South Dakota. Other countries include Britain, Canada, India, Italy, Japan, Jordan, Kuwait, Mexico, Peru, and Turkey.

Remains originating from other states and other countries present special problems when attempting to create a final disposition. They require consultation with distant tribes and state historic preservation offices and, in the case of remains from other countries, with commensurate agencies within those governments. Successful repatriations of remains identified as Indian have been made to appropriate tribes in Colorado, Montana, Oregon, and Utah for five cases, and arrangements have been made with the appropriate tribes in Oklahoma and Alaska for three others.

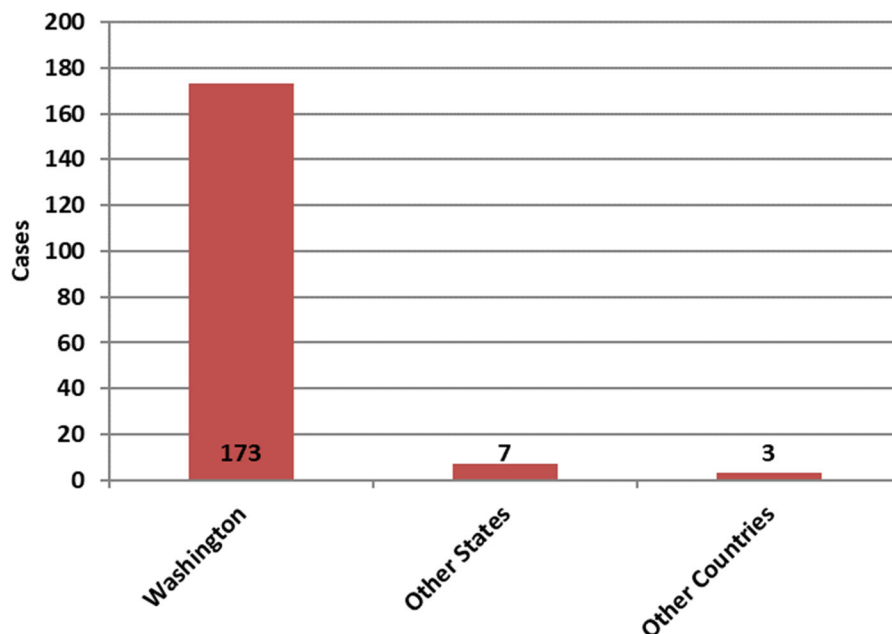


Figure 7. Reported Origin of Human Skeletal Remains Cases from the 2021-23 Biennium.

LETTER NOTIFICATIONS

When non-forensic human skeletal remains are reported to DAHP and when the State Physical Anthropologist determines the ancestry of those reported remains, those events are required by law to be reported to any appropriate cemeteries and affected tribes (tribal chairs) via certified mail. In addition, once the affected tribes are identified of Indian remains, a third letter notification (a repatriation letter) is sent to those tribes to identify the interested affected tribes and to arrange for a meeting to discuss final disposition of the remains.

On average DAHP sends approximately 670 certified notification letters per year or approximately three tribal chair letters per DAHP business day. In the 2021-23 biennium DAHP sent 2,224 certified letter notifications (up 216% from the previous biennium) to tribal chairs from 43 different tribes regarding non-forensic human skeletal remains cases (Figure 8). The increase for the 2021-23 biennium represents an average of over 1,100 certified letter notifications per year or nearly five tribal chair letters per DAHP business day. The increase in the number of letter numbers is directly related to increase in case load for the biennium. These letters have included 1,045 letter notifications of the reporting of non-forensic remains to DAHP, 1,045 letter notifications of a determination of ancestry by the State Physical Anthropologist, and 134 letter notifications regarding final disposition.

In addition, copies of these notification letters are required by law to be mailed to the respective cultural resource departments of each tribe notified. These normally average an additional six letters per DAHP business day. Tribal cultural resource staff generally average about two individuals per tribe and letters sent to them account for an estimated additional 4,448 notification letters (up over 216% from the previous biennium). This represents an increase to nine additional letters per DAHP business day. The increase in letter numbers is again, the result of the increase in case load for the 2021-23 biennium.

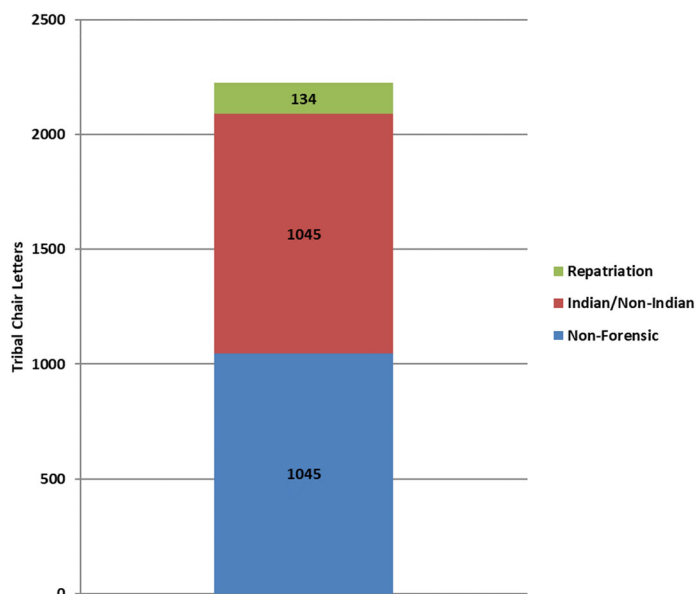


Figure 8. Numbers of Certified Letter Notifications Sent by Letter Notification Type for the 2021-23 Biennium.

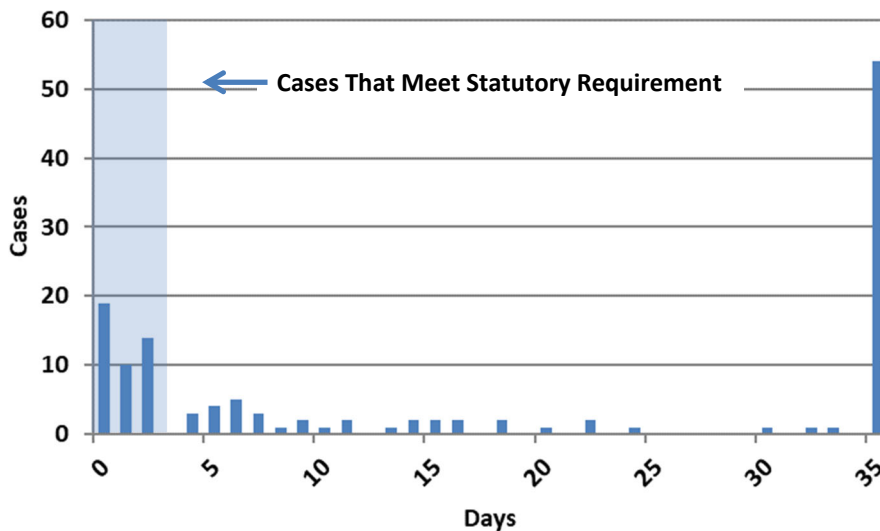


Figure 9. Days to Complete the Non-Forensic Notification Letter to Appropriate Cemeteries and Affected Tribes (2 day statutory requirement) for the 2021-23 Biennium.

All the above notification letters are required by law to be issued in a prescribed period of time. Upon notification to DAHP of the discovery of non-forensic human skeletal remains, DAHP is required to notify any appropriate cemeteries and all affected tribes by certified letter within **two business days**. DAHP performance for this notification timeline generally meets the requirement under the statute for a large proportion of the non-forensic human skeletal remains cases reported to tribes and cemeteries (usually over 90%), but in the past biennium has slipped considerably to just over 32% (Figure 9). The overall average number of days to complete a non-forensic letter notification in the 2021-23 biennium was 18 days, a further decrease in performance. The inability to meet the statutory deadlines for many cases in the 2021-23 biennium is directly attributable to the nearly 200% increase in case load. Improvement in the average number of days has been in the past attributable to the hiring of an Assistant, but now case load outstrips the ability of the State Physical Anthropologist and the Assistant to handle the statutory requirements of notification in the proscribed period. Regardless of overall timeliness, **all inadvertent human skeletal remains finds** (the most critical find type associated with active construction) meet or exceed the statutory requirement of two days as they are considered a priority for handling over other case types.

The DAHP must also notify any appropriate cemeteries and affected tribes by certified mail of the State Physical Anthropologist’s determination of ancestry within **two business days** of the notification of non-forensic remains (the law is not specific as to whether the two days refers to the coroner’s notification to DAHP or to DAHP’s notification to appropriate cemeteries and affected tribes, so it could be interpreted to mean either two or four total days). The percentage of cases meeting the statutory requirement in the 2021-23 biennium was just 28% compared to over 70% in the previous biennium (Figure 10). The average number of days to complete this notification was 33 days, a large rise from the previous biennium. This is a direct result of the nearly doubled case load in the 2021-23 biennium. While previously decreases in the notification times was attributable to the hiring of an Assistant, the current case load is even too large for the State Physical Anthropologist and Assistant to handle alone. Regardless of the overall timeliness, all inadvertent human skeletal remains finds meet or exceed the statutory requirement of two days as they are considered a priority for handling over other case types.

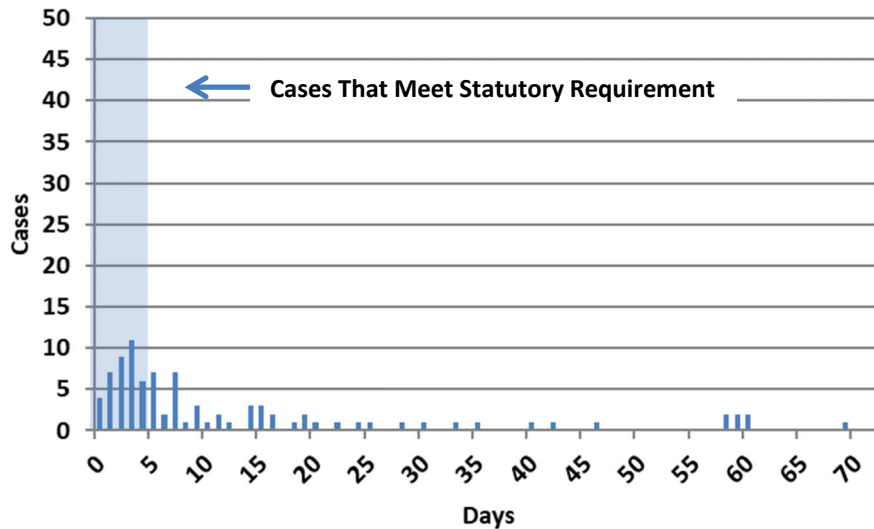


Figure 10. Days to Complete the Indian/Non-Indian Notification Letter to Appropriate Cemeteries and Affected Tribes (2 to 4 day statutory requirement) for the 2021-23 biennium.

The failure to meet the two day statutory requirements in both notification letters for some cases is related to the unprecedented increase in caseload for the 2021-23 biennium (one new case every three DAHP business days), delays in the transfer of jurisdiction between the county coroners and DAHP, investigations requiring detailed background work to determine the origin of the remains, the presence of multiple individuals per case, and limited personnel (the single State Physical Anthropologist and single Assistant State Physical Anthropologist). In addition, all inadvertent finds are given precedence in notification over remains from previous years or that were confiscated recently by law enforcement. Consequently, these other case types are pushed back in the order of consideration. The trend in the previous biennium indicated that going forward the statutory deadlines for notifications should have been able to be maintained, all other things being held equal. However, the unanticipated, nearly 200%, increase in caseload in 2021-23 was not predictable.

Although there is no statutory requirement to issue a letter notification regarding repatriation, once the five-day response period expires for tribes to respond as to their interest in a set of remains, DAHP issues a “repatriation” letter identifying the interested affected tribes and asking for a meeting to discuss the disposition of the remains. In the 2021-23 biennium repatriation letters were issued for 59 cases (Figure 11), nearly doubled from the previous biennium. This letter was issued on average of 25 days after a reporting of non-forensic human skeletal remains. While this was a decline in performance from the previous biennium in terms of days to issue the repatriation letter, it also represents a better performance in that more repatriation letters were issued over the last biennium.

The number of cases a particular tribe is notified on depends on the area of interest for that particular tribe and the number of cases that originate from that particular area. Tribes throughout the state self-identify their areas of interest. Table 1 presents the number of cases that tribes have been notified about during the 2021-23 biennium. The data reflect the high number of cases reported by counties from western Washington, particularly the Puget Sound region (see also Figure 2). The high number reported for the Puyallup Tribe and the Sauk-Suiattle Tribe is also partly due to those tribes identifying the entire state of Washington as an area of interest for non-forensic human remains discoveries.

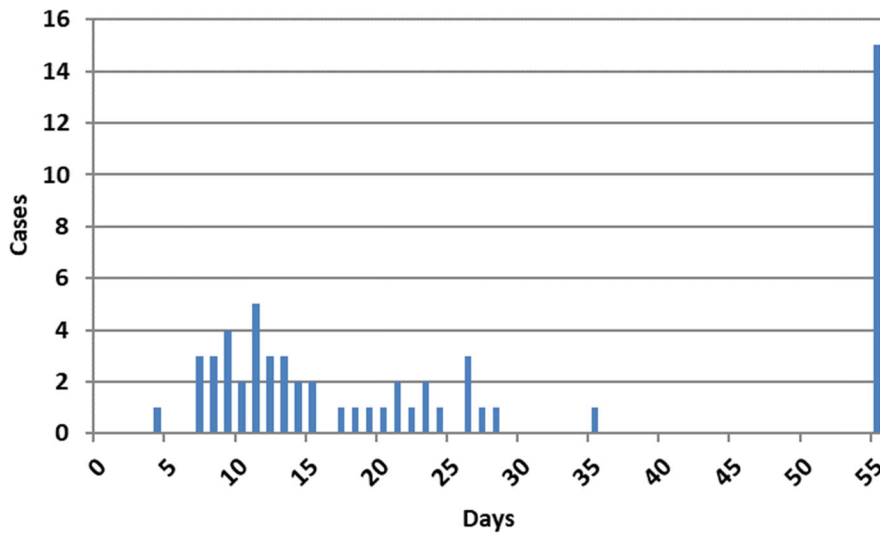


Figure 11. Days to Complete the Repatriation Notification Letter to Interested Affected Tribes (no statutory requirement) for the 2021-23 Biennium.

Letter notifications to tribal chairs are required by law to be sent via certified mail. Since the passage of House Bill 1426, DAHP has been able to send these notifications via electronic return receipt (ERR), saving the agency an average of \$1.20 per piece of certified mail. In the 2021-23 biennium DAHP estimated the cost savings of \$2,269 and anticipates an annual savings of about \$900.

Table 1. Tribes Notified (# of Cases Notified) for the 2021-23 Biennium.

Chehalis (12)	Lower Elwha (9)	Quinalt (4)	Steilacoom (3)
Chinook (8)	Lummi (29)	Samish (40)	Stillaguamish (13)
Couer d’Alene (20)	Makah (3)	Sauk-Suiattle (134)	Suquamish (49)
Colville (62)	Marietta Band (0)	Shoalwater (10)	Swinomish (28)
Cowlitz (2)	Muckleshoot (30)	Siletz (1)	Tulalip (39)
Duwamish (24)	Nez Perce (65)	Skokomish (13)	Umatilla (11)
Grand Ronde (2)	Nisqually (4)	Snohomish (0)	Upper Skagit (24)
Hoh River (0)	Nooksack (13)	Snoqualmie (58)	Wanapum (39)
Jamestown (23)	Port Gamble (13)	Snoqualmoo (0)	Warm Springs (4)
Kalispel (14)	Puyallup (134)	Spokane (24)	Yakama (45)
Kikiallus (0)	Quileute (3)	Squaxin Island (37)	

DISPOSITION OF HUMAN SKELETAL REMAINS

The need for the disposition of Indian and non-Indian remains is required by state law. The State Physical Anthropologist has arranged for and completed the disposition of human skeletal remains for 36 cases in the 2021-23 biennium, a three-fold increase over the previous biennium. Of those, 14 were repatriated to the interested affected tribes, 5 cases of Native remains were reburied in place or at a different location, and 17 non-Native clinical remains were transferred to higher education for instruction purposes. An additional 6 cases were found on federal land and therefore were handled by the respective federal agencies under the Native American Graves Protection and Repatriation Act. Remains associated with 5 cases could not be located or were previously repatriated or reburied, and two cases did not have identifiable human remains or were remains determined to be non-human. The remaining cases are either awaiting final disposition by DAHP or are awaiting transfer to DAHP for investigation.

Based on the current caseload and limited personnel available (the State Physical Anthropologist and the Assistant State Physical Anthropologist), it is impossible to conduct arrangements for the final disposition of many remains in a timely fashion. Difficulties can arise when multiple tribes claim the same set of remains, but these are generally resolved through DAHP-hosted intertribal meetings. More difficulty is encountered when the remains derive from out-of-state and consultation with distant tribes or state historic preservation offices is required. The DAHP has been able to successfully repatriate Indian skeletal remains deriving from the states of Colorado, Montana, Oregon, and Utah and have made arrangements for repatriations to Oklahoma and Alaska. Currently, DAHP's secure human skeletal remains laboratory (Figure 12) houses human skeletal remains awaiting disposition that derive from 295 cases representing the remains of at least 424 individuals. These numbers have grown from the previous biennial report (197 cases representing at least 276 individuals) because of the unprecedented increase in caseload and the difficulty in finding time to arrange for dispositions with the limited staff available. These remains occupy 100% of the secure cabinet space within the laboratory and occupy an overflow table in the laboratory (65 cases). They include both Indian and non-Indian remains. With current staff levels, the backlog of human skeletal remains cases awaiting final disposition continues to rise.



Figure 12. DAHP's Secure Human Skeletal Remains Laboratory.

While the disposition of Indian remains is clearly indicated in state law and requires consultation with the interested affected tribes, the disposition of non-Indian remains is less clear. Currently DAHP houses remains deriving from 85 non-Indian human skeletal remains cases. These include unidentified historic period non-Indian remains and remains formerly used for teaching purposes that were confiscated or turned into law enforcement. This number has increased dramatically (more than doubled) from the last biennial report (up from 38) indicating the need for another interment of non-Indian remains in the DAHP's communal plot (see below).

In a previous budget cycle, DAHP sought and was awarded funds to rebury unidentified non-Indian human skeletal remains. Working with the Evergreen-Washelli Cemetery in Seattle, DAHP was able to acquire through donation, a plot (Cemetery E, Section 12, Lot 304, Grave 2) and headstone for these remains (Figures 13 and 14). The funds were used to purchase a grave liner and to conduct the actual reburial of the remains. The remains of 46 unidentified non-Indian individuals from 18 human remains cases were laid back to rest on September 30, 2015 and an additional reburial of 37 unidentified non-Indian individuals from 26 human remains cases was made on June 8, 2017. The double grave liner provides room for up to approximately 50 banker's boxes and roughly 34% of the space was utilized in the current reburials and it is anticipated that the plot will be full when reburials occur this coming Spring. The DAHP will have to ask the legislature for additional funding to conduct additional reburials after that. Funding for the reburials could result in the elimination of the use of the less secure overflow table and the freeing up of some of the secure cabinet space available in DAHP's human remains laboratory for additional current and future cases.

Clinical specimens are comprising more and more of a significant proportion of the number of Non-Indian cases lacking a disposition. The DAHP is currently exploring an agreement with King County Medical Examiner's Office and the University of Washington Medical School regarding disposition of these clinical specimens. It is DAHP's intention to return these cases to their original function as clinical/teaching specimens if they are of the quality required by the medical school.

In addition to these non-Indian cases, there are cases involving remains that derive from outside of the state of Washington and cases that derive from outside of the country. The DAHP hopes to eventually resolve their disposition as well through consultation with other State Historic Preservation Offices, tribal governments, and foreign consulates.

STAFF CHANGES

In the fiscal year 2014-15 DAHP was awarded funding to hire an Assistant State Physical Anthropologist for one year to assist the State Physical Anthropologist with the handling of non-forensic human skeletal remains cases. An Assistant State Physical Anthropologist was hired in July of 2014. The extension of the position was made possible through additional funding provided by the legislature through the 2015-17 biennium. During this same period, however, the DAHP Cemetery Database Cartographer position was eliminated due to budgetary cuts. The task of building and maintaining DAHP's Cemetery and Burial Site database and GIS layer then fell to the State Physical Anthropologist and the Assistant State Physical Anthropologist on top of their current duties. Because of the pressing needs of the human remains program, the cemetery program has consequently been given a lower priority (see Cemeteries and Burial Sites section below). In September of 2021 the Assistant resigned, and a search was initiated and completed shortly thereafter resulting in the hiring of another



Figure 13. Reburial of Unidentified Non-Indian Human Skeletal Remains at the Evergreen-Washelli Cemetery in Seattle, Washington Conducted on June 8, 2017.



Figure 14. Donated Headstone to Mark the Location of the Reburial Plot for Unidentified Non-Indian Human Skeletal Remains at the Evergreen-Washelli Cemetery in Seattle, Washington.

Assistant. The new Assistant worked through most of the 2021-23 biennium, but then took a teaching position elsewhere and another search was initiated for a replacement which occurred during the current biennium. Funds are currently being sought with the legislature for the hiring of an additional Assistant to help with the increased workload.

SKELETAL HUMAN REMAINS ASSISTANCE ACCOUNT

The Skeletal Human Remains Assistance Account was created to subsidize or cover the costs associated with the inadvertent find of human skeletal remains. As such, the primary purpose of the account is to cover the costs of recovery, reburial, erosion control, re-interment, or other expenses deemed by the Director to be essential to the resolution of a case involving the inadvertent find of human skeletal remains. The original biennial allocation for the account was \$500,000 in 2008. The biennial allotment was reduced during the recession by the legislature to \$200,000 but additional monies were added since that time. One application was made to the account during the 2021-23 biennium to request financial assistance to help defray costs associated with an inadvertent human skeletal remains find. The DAHP has reviewed the application and funded it for a total of \$27,916.80, effectively emptying the fund. Replenishment of the fund to the original \$500,000 is being requested in the 2024 Supplemental Budget. The replenished fund would be used to pay for additional grant requests and to fund an additional Assistant position from the account as in previous years. This is needed in order to handle the recent increase in human skeletal remains caseload and the projected increase in cases due to federal undertakings through the new Infrastructure Investment and Jobs Act and green energy siting projects. Over the years the fund has reimbursed inadvertent human remains costs for a total of \$433,758.

In lieu of seeking monies from the account, landowners have also been able to rely upon the in-house work of the State Physical Anthropologist and the Assistant State Physical Anthropologist to conduct necessary fieldwork associated with inadvertent finds of human skeletal remains (Figure 15 and 16). This is only possible if it will not interfere with the State Physical Anthropologist and Assistant State Physical Anthropologist's ability to respond to inadvertent finds elsewhere, and if additional help is available from DAHP staff tasked with other duties. A total of 38 field responses (866 field hours and 12,435 road miles) were conducted and included nine recoveries and reburials in the 2021-23 biennium by the State Physical Anthropologist and the Assistant State Physical Anthropologist, primarily for private landowners.

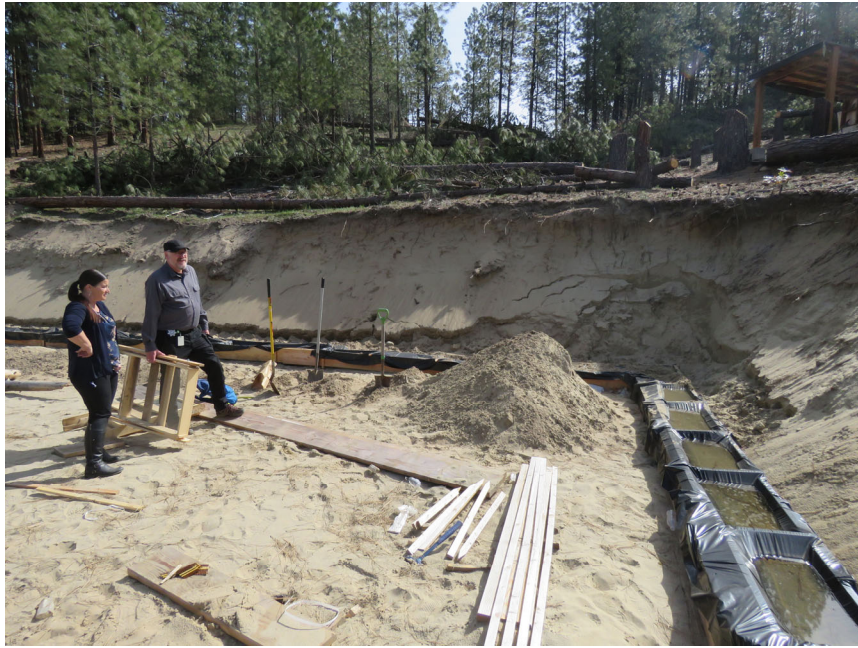


Figure 15. Human Remains Recovery by the State Physical Anthropologist and Stevens County Coroner in Stevens County.



Figure 16. Non-Indian Human Remains Reburial by the Assistant State Physical Anthropologist and Cemetery Representatives at the Orting Cemetery in Pierce County.

OTHER ACTIVITIES OF THE STATE PHYSICAL ANTHROPOLOGIST

In addition to their statutory requirements, the State Physical Anthropologist also routinely reviews documents for compliance with the new legislation. These include memorandums of agreement, inadvertent discovery protocols, archaeological permits, policy documents, and archaeological reports submitted to DAHP for review by various agencies. These reviews are only sporadically recorded but should be more diligently accounted for in future biennia.

In the 2021-23 biennium, the State Physical Anthropologist and the Assistant State Physical Anthropologist conducted trainings covering the state's human remains laws to over 180 individuals from state, federal, and local government, as well as tribal representatives and the public.

Lastly, the State Physical Anthropologist has been increasingly called upon by various law enforcement agencies, county coroners, governmental agencies, archaeologists, and private individuals to identify suspected human skeletal finds from across the state of Washington. The State Physical Anthropologist has lent his expertise in the identification of these remains (74 instances in the last biennium) and helped to direct them, in those cases where human skeletal remains were involved, toward the proper reporting process as outlined in the law.



CEMETERIES AND BURIAL SITES

Under the new legislation, DAHP was charged with the development and maintenance of a centralized database and geographic information system (GIS) spatial layer of all known cemeteries and known sites of burials of human remains in the state of Washington. The database and GIS layer are available on-line through Secure Access Washington (SAW) to qualified and approved users.

This task commenced in July of 2008 when the Washington Historical Cemeteries Database and GIS Layer were created (Figures 17 and 18, respectively). Archaeologists were encouraged to record previously unrecognized cemeteries using DAHP's standard archaeological form, while a new cemetery form was developed for public use. These forms are available on DAHP's website. This process has continued through the current biennium and will continue as more cemeteries and burial sites are identified and recorded.

WASHINGTON HISTORICAL CEMETERIES: Add/Edit

Record ID: 879 Name on cemetery sign, if any: Bayview Cemetery Archy Site ID: WH00787

NAME/LOCATION **OWNER/CONTACT** **GENERAL INFO** **DESIGN CHARACTER** **CEMETERY HISTORY**

Other Known Names: _____ Physical address, if any: 1400 Woburn at Lakeway Drive

City/Town/Community: Bellingham Vicinity Zip Code: _____ County: Whatcom Info Source: Other

Directions from nearest community:
From downtown Bellingham, go east on Lakeway Drive. Cemetery on the north side of road.

Township/Range/Section **Quadrangle** **Parcel/Lot #:**

Township	Range	E/W	Section	BELLINGHAM NORTH	380329535080 (4 parcels) & 380329551222 (2 parcels)
38	03	E	28	BELLINGHAM SOUTH	
*				*	

Listing Status: Not Identified Historic Property Scan ID: _____ Non-DAHP #: _____

References
1989 Cemetery Centennial; USGenWeb; Cemetery records of Whatcom County - Whatcom Genealogical Society (1973); "History of Whatcom County" by Roth (1926)

Site Description

Entered by: Susan Goff Completed Date: 8/7/2008 GIS Method: Digitized From 24K USGS Map **Print** **Save** **Exit**

Figure 17. Example of a Recorded Cemetery from the Washington Cemeteries and Burial Sites Database.

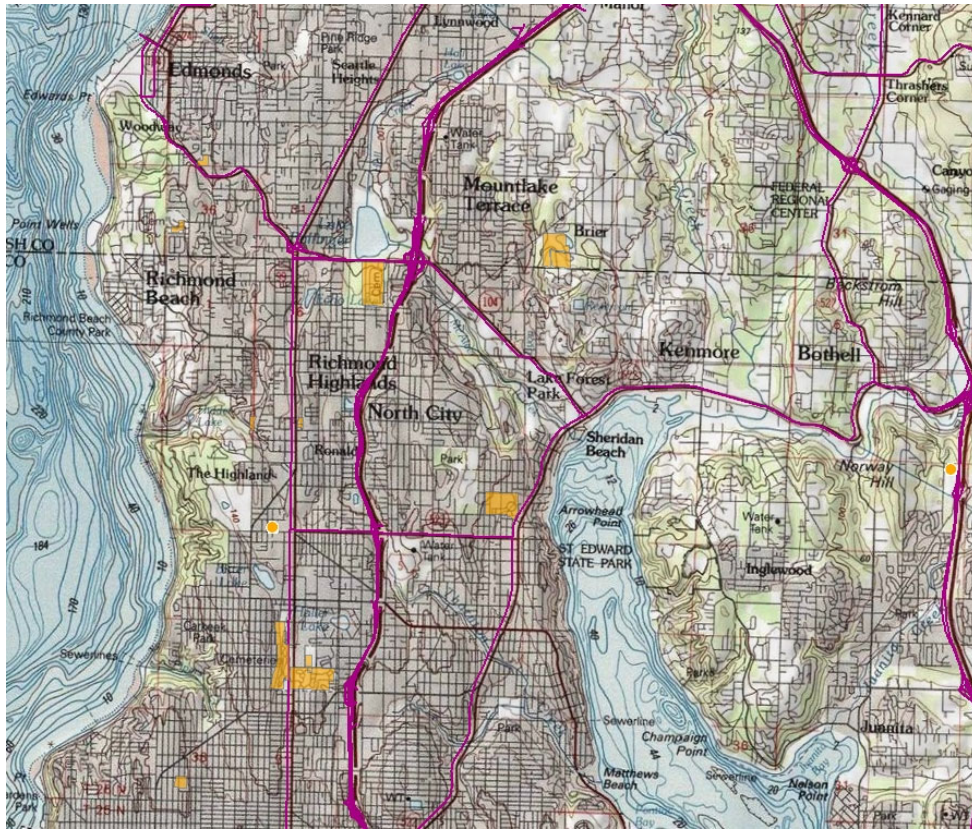


Figure 18. Example of DAHP's Cemetery and Burial Site GIS Layer (cemeteries and burial sites are indicated in yellow).

Prior to the passage of the legislation and DAHP's efforts to document these burial sites, only 154 cemeteries were listed in records kept by the State Funeral and Cemetery Board. To create the current cemeteries database and GIS layer, DAHP's Cemetery Database Cartographer utilized a variety of sources including historic maps, as well as data provided by the public, genealogical societies, the internet, historical societies, state archives, local government records, DAHP's internal records, archaeologists, and tribes. Through these records, DAHP has been able to record additional cemeteries and burial sites. In addition, those human skeletal remains cases found through inadvertent discovery and handled by the State Physical Anthropologist are also added to the database and GIS layer.

Due to retirement, DAHP lost its Cemetery Database Cartographer in August of 2014 and the position was lost due to budgetary cuts in June of 2015. Consequently, the responsibility of updating and maintaining DAHP's cemetery database was added to the existing duties of the State Physical Anthropologist and the Assistant State Physical Anthropologist. The updating of the GIS cemetery layer was added to duties of the GIS Cultural Resource Analyst at the direction of the State Physical Anthropologist. While new human remains finds are continuing to be added to the cemetery database and GIS layer, the existing workload of the two human remains staff leaves little time for active research to add former cemeteries and burial sites to the database or to update the existing entries as additional information is discovered. This could result in inadvertent impacts to cemeteries and burial sites.

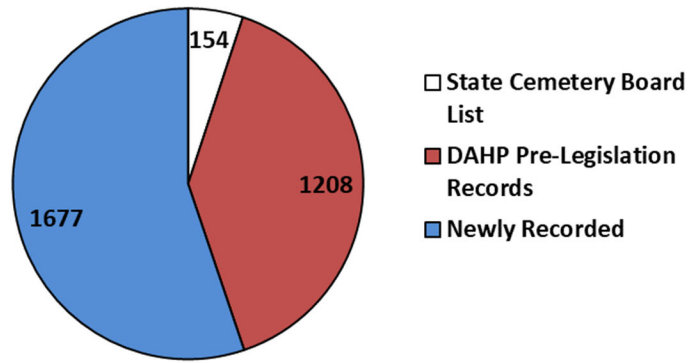


Figure 19. Source Information for the Recording of Cemeteries and Burial Sites.

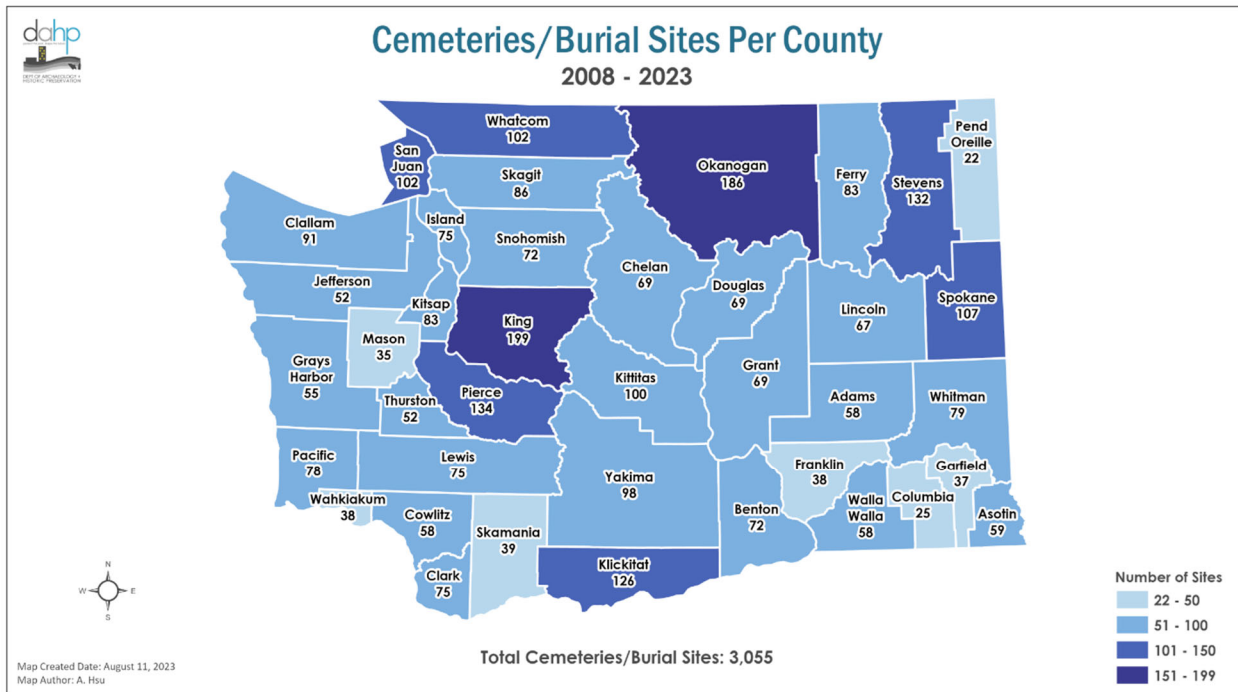


Figure 20. Distribution of Recorded Cemeteries and Burial Sites Across the State by County as of the end of the 2021-23 biennium.

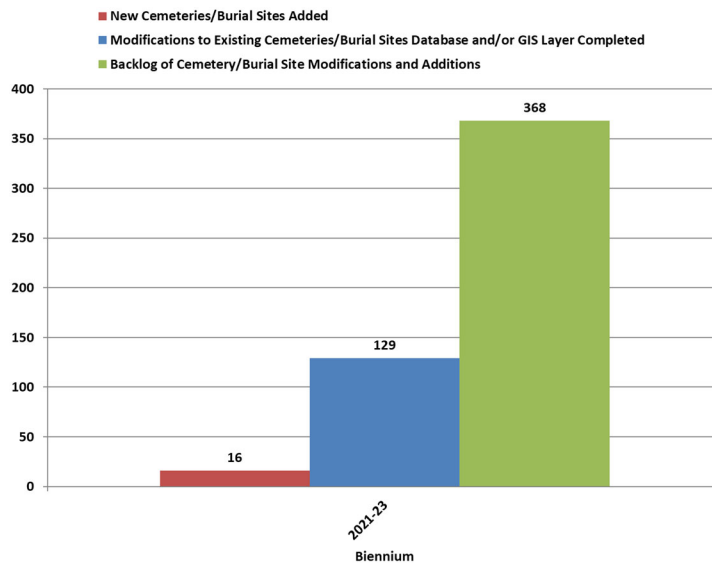


Figure 21. New Cemeteries/Burial Sites Added, Modifications Made, and Backlog of Modifications/New Cemeteries Yet to Add.

Currently, DAHP has included in its database and/or mapped on its GIS layer 3,055 cemeteries and burial sites, an additional 16 having been added in the 2021-23 biennium (Figures 19 and 20). The relatively low number of newly added cemeteries is a direct reflection of the loss of DAHP Cemetery Database Cartographer position due to budgetary cuts in the 2015-2017 budget and the inability of the State Physical Anthropologist and the Assistant to cover these extra duties.

Following the retirement of the Cemetery Database Cartographer, the State Physical Anthropologist began tracking maintenance activities to both the cemetery database and the GIS layer to capture workload information more accurately by the State Physical Anthropologist and Assistant State Physical Anthropologist. As indicated previously they have added 16 new cemeteries/burial sites to the cemetery database but have also performed modifications to 129 previously recorded cemeteries/burial sites in the 2021-23 biennium (Figure 21). In addition, the GIS cultural resource analyst has mapped the 16 new cemeteries/burial sites on the Cemetery GIS layer. A backlog of 368 additions or modifications to the database and GIS layer currently exists and this backlog is projected to grow even larger in the coming biennium without additional help.

Of the 3,055 cemeteries and burial sites known by DAHP, approximately 85% have been mapped on to the agency's GIS cemeteries and burial sites layer. Most of the remaining cemeteries have too little information associated with them to accurately map.

Prior to passage of the new law, the state only had on record with the State Funeral and Cemetery Board those cemeteries that fell under its jurisdictional control (cemetery associations and for-profit cemeteries). State law (RCW 68.05.400) excluded nonprofit religious cemeteries and cemeteries controlled and operated by a coroner, county, city, town, or cemetery district. Of the 3,055 DAHP recorded cemeteries where ownership has been identified (2,440 cemeteries), 69% are owned by either government agencies (city, port, county, state, or federal) or by private ownership (Figure 22). The remaining cemeteries and burial sites are owned by a variety of entities and only a small proportion (<3%) are for-profit cemeteries and associations regulated by the State Funeral and Cemetery Board.

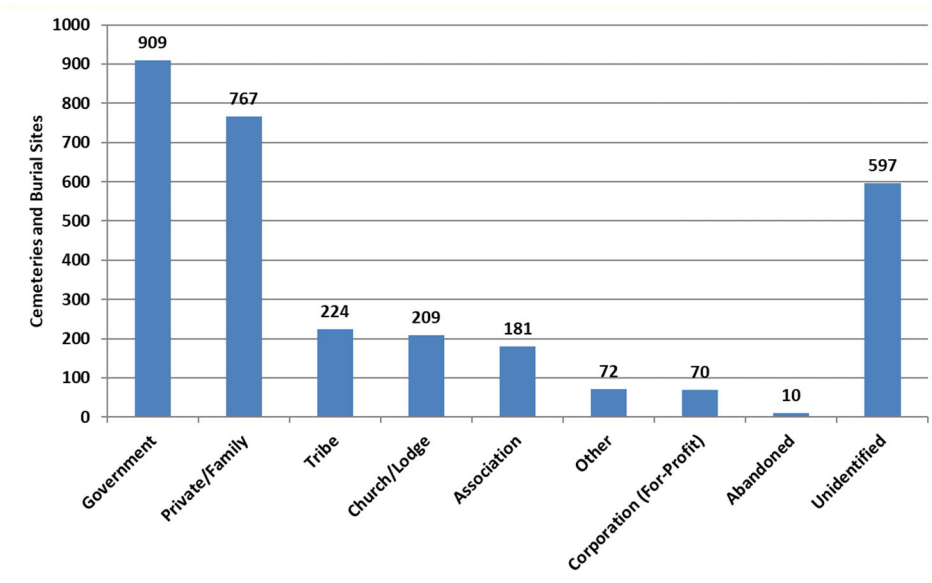


Figure 22. Distribution of Ownership of Cemeteries and Burial Sites.

DAHP’S CARE AND MAINTENANCE CERTIFICATE FOR ABANDONED CEMETERIES

Abandoned cemeteries are cemeteries for which no ownership can be determined by the county assessor. In 2017, House Bill 1907, expanded the definition to also include cemeteries that no longer hold a valid certificate of authority to operate as determined by the Washington State Funeral and Cemetery Board. The DAHP, under the authority granted by Washington state law (RCW 68.60.030), may grant nontransferable certificate authority to maintain and protect abandoned cemeteries to preservation organizations incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery. This authority is limited to the care, maintenance, restoration, protection, and historic preservation of an abandoned cemetery. Authority may also be granted to Washington nonprofit corporations not expressly incorporated for these purposes.

In 2019, House Bill 1801, added local governmental organizations to the list of potential applicants for care and maintenance certificates issued by the DAHP. In addition, the bill required DAHP to establish standards and guidelines for granting certificates of authority and this was accomplished in the 2017-19 biennium. Since 2009, DAHP has granted certificate authority to care and maintain 13 recorded abandoned cemeteries (three in the last biennium). These include eleven non-profits and two local governmental organizations.

CEMETERY DATABASE UPDATES AND REFERENCES DIGITIZATION

Several long-term projects have been initiated in the previous biennia to help facilitate use of the cemeteries database and geographic information system. A plan to digitize and make accessible cemetery reference materials used initially to record the cemeteries was developed and implemented. These cemetery reference copies were previously stored in an upright filing cabinet and were not generally accessible outside of DAHP. The project began with a modification to the existing cemetery database to make citations of reference

materials entered into the database to be stored individually rather than in a single field. The purpose of this modification was to allow the linking of the individual citations to actual digitized copies of the reference materials cited. A standardized file structure was also built on DAHP's server to store all reference materials by cemetery record number. Digitized copies of hard paper copies of reference materials were completed in the 2017-19 biennium and they were placed on DAHP's server and links were created in this biennium allowing for electronic access to the digitized copies. The ability to add newly discovered reliable documents and photographs was added in the 2021-23 biennium to the cemetery and burial site database. Base programming work was also completed on allowing WISAARD submission of cemetery and burial site database updates by WISAARD users. This will hopefully be completed in the 2023-25 biennium.

Additionally, over the years DAHP has collected cemetery photographs taken by both DAHP staff and private parties. These photos are stored in various files on DAHP's server. In the 2019-21 biennium, these various digital photos were added to the file structure built above and made available through DAHP's online WISAARD.

Finally, with the rollout of WISAARD Phase III, DAHP will be able to conduct keyword searches of not only digitized archaeological site files, but all digitized archaeological site reports. Previously only titles were keyword searchable. This keyword search feature will allow the State Physical Anthropologist to conduct keyword searches to help identify additional cemeteries and burial sites not yet captured in the cemetery database and GIS system. Additionally, online historic newspaper resources are now widely available and can be searched by keywords as well. These two potential sources of cemetery and burial site information also need to be searched and will undoubtedly provide a wealth of new information on unrecorded cemeteries and burial sites in Washington.

The recording of these additional cemeteries and burial sites will allow for their effective protection. The DAHP's efforts to complete the task of recording Washington's cemeteries and burial sites continues as the State Physical Anthropologist adds additional locations identified through other newly examined records including Federal Register NAGPRA Notices, county plat maps and records, new archaeological site forms and reports, and new cemetery forms. However, the rate at which these new cemeteries and burial sites are recorded has slowed considerably since the loss of the Cemetery Cartographer's position.

Currently, less than one percent of the over 1,800 historic period cemeteries in the cemetery and burial site database have been professionally recorded. While some of these are expected to be officially recorded by archaeologists during project reviews over the years to come, many may never be recorded. Consequently, the State Physical Anthropologist and the Assistant State Physical Anthropologist continue to make an effort to professionally record unrecorded historic period cemeteries if time permits while responding to nearby non-forensic human skeletal remains cases. This will continue when possible into the future.

HISTORIC CEMETERY PRESERVATION CAPITAL GRANT PROGRAM

Legislation creating the Historic Cemetery Preservation Capital Grant was passed in 2016 and established a grant program within DAHP to fund construction, renovation, or rehabilitation projects that preserve the historic character, features, and materials of a cemetery or maintains and improves cemetery function. Management of the grant was awarded to the Washington Trust for Historic Preservation under contract. The State Physical Anthropologist and Assistant provide technical support to the Grants Committee and to applicants. No funds

were allocated by the legislature in the 2015-17 budget cycle and, consequently, no grants were distributed. Funds awarded in 2017-19 biennium provided \$456,300 for cemetery preservation projects and the cemetery advisory committee recommended funding for 22 cemeteries totaling \$452,846.48 in grants. The 2019-21 capital budget included \$515,000 in funding and the cemetery advisory committee recommended funding for 22 cemeteries totaling \$468,225 in grants. The legislature allocated an additional \$300,000 for historic cemetery grants in the 2021-23 biennium and the cemetery advisory committee recommended funding for 13 cemeteries totaling \$280,000 in grants. The legislature allocated an additional \$500,000 for the 2023-25 biennium and applications have been received and will be reviewed in the coming months.



SUMMARY

Significant changes to Washington State law in 2008 created a uniform reporting process for the discovery of human skeletal remains within the state. In addition, the Department of Archaeology and Historic Preservation was given jurisdictional control over the handling and disposition of non-forensic human skeletal remains and the responsibility of reporting those remains to the appropriate cemeteries and affected tribes. The new law also created the position of the State Physical Anthropologist whose primary responsibility is the investigation, preservation, and, when necessary, the removal and reintering of discoveries of non-forensic skeletal remains. The law also required DAHP to create and maintain a database and GIS layer of all known cemeteries and burial sites within the state.

In the 2021-23 biennium DAHP opened and investigated 183 new non-forensic human skeletal remains cases which entailed 866 field hours and 12,435 travel miles. These cases represent the skeletal remains of at least 260 individuals. Most of the remains were identified as Indian and most come from counties in the northwestern portion of the state. Dispositions for these remains have been completed for 36 cases in the 2021-23 biennium. The average caseload for the agency is 52 cases per year or approximately one new case every five business days, but in the 2021-23 biennium that had risen to 92 cases per year or one new case every three business days.

In the 2021-23 biennium, these cases required 2,224 letter notifications to appropriate cemeteries and affected tribes and an additional estimated 4,448 letter copies to cultural resource groups within those respective tribes. Of the 183 cases in the 2021-23 biennium, dispositions for 36 cases have been completed. Most of the non-forensic human skeletal remains reported to DAHP have been identified by the State Physical Anthropologist as Indian and this trend continued into the 2021-23 biennium although an increase in the numbers of non-Indian remains was noted. A backlog of 287 open cases currently exists as does a backlog of 686 case reports. Consequently, DAHP identified the need for an Assistant State Physical Anthropologist and was awarded funds to hire and continue their employment through the fiscal year 2023. The DAHP is currently seeking funds to hire an additional Assistant to help with the unanticipated increase in case numbers and to help with the backlog of repatriations, report writing, and investigations.

The State Physical Anthropologist and Assistant State Physical Anthropologist have added an additional 16 cemeteries and burial sites in the 2021-23 biennium to the database and GIS layer bringing the total number of cemeteries and burial sites documented to 3,055. This process will continue as additional non-forensic human skeletal remains cases are handled by DAHP and as other cemeteries are documented by archaeologists and other entities. In addition, the State Physical Anthropologist and Assistant State Physical Anthropologist continue to maintain and update information on currently known cemeteries and burial sites as it becomes

available. DAHP has issued certificates of care and maintenance authority to eleven non-profits and two local governmental agencies to care and maintain nine historic abandoned cemeteries.

Back Cover Illustration: *The State Physical Anthropologist Investigating a Burial Site in Skagit County.*



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