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# INDIANA HISTORICAL SOCIETY COLLECTIONS ADVISOR

A RESOURCE FROM IHS LOCAL HISTORY SERVICES

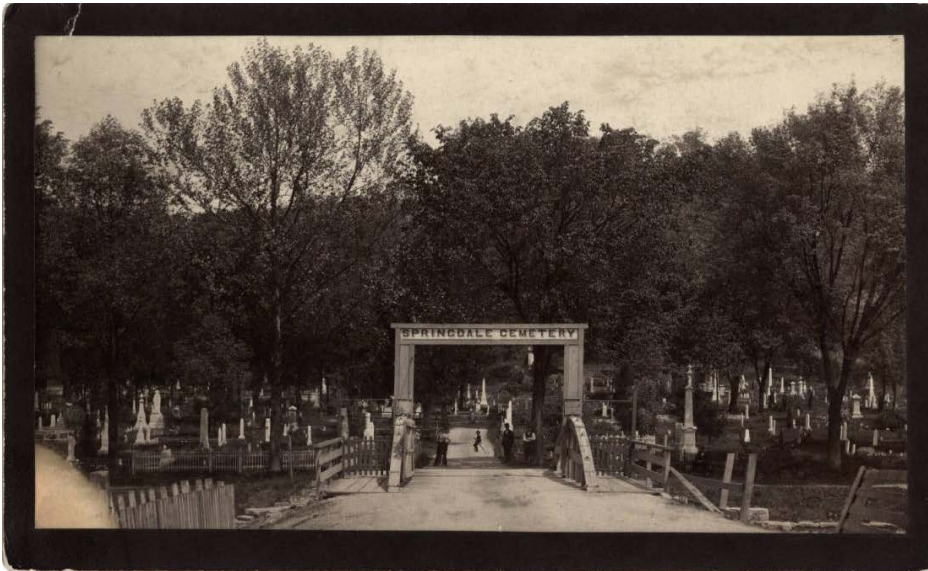
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## GRAVE MATTERS: GRAVE MEMORIALS AND BURIAL ITEMS IN MUSEUM COLLECTIONS

By Karen DePauw, manager, IHS Local History Services

Museums hold a host of interesting items in their collections. Most capture the stories of people's lives, but others might capture the stories of their burials. So, what should a museum do when a collections inventory turns up items associated with burials? The good news is that numerous laws, state and national, are in place to help outline the legal aspects of these items. Continue reading for some advice on how to make sure your museum is on the right track.



[Springdale Cemetery](#). (Indiana Historical Society)

When dealing with items in a museum collection multiple things guide our decisions, from the policies and procedures we put in place as individual organizations to overarching ethics policies and guidelines created by national organizations. We cannot forget, however, that there are also many laws governing the work of museums, even if indirectly. Some laws, like the Indiana Property Law, directly address museum issues and use the term "museum" throughout to make it clear the law is made, in part, for them (for more on the Indiana Property Law read the [September 2018 Collections Advisor](#)). Other laws, like those governing 501(c)(3) nonprofits, might not call out museums directly, but since museums are usually designated as 501(c)(3) nonprofits, the laws apply.

Grave memorials and burial items in museum collections are often guided primarily by laws that do not outright address museums, rather they more broadly address these items. This requires museums to decipher if and how the law applies to them. This is where the disclaimer comes in, I am not a lawyer and this Collections Advisor should not be taken as legal advice. The information is presented here to make you aware of some of the laws that govern grave memorials and burial items in general that may apply to your museum in certain situations.

### ONLINE RESOURCES

[AAM Code of Ethics for Museums](#)  
(American Alliance of Museums)

[Cemetery and Burial Ground Mandates and Laws](#)  
(Indiana Department of Natural Resources)

[Indiana Code 14](#)  
(Indiana General Assembly)

[Native American Graves Protection and Repatriation Act \(NAGPRA\)](#)  
(National Park Service)

### FROM OUR LENDING RESOURCE CENTER

[A Legal Primer on Managing Museum Collections](#)  
(Marie C. Malaro)

[Museum Law: A Guide for Officers, Directors, and Counsel](#)  
(Marilyn E. Phelan)

### UPCOMING TRAINING AND PROGRAMS

[Protecting Collections: From the Environment and You](#)

Oct. 3 -  
Indiana Historical Society.

[Practical Book Repair](#)  
Oct. 3 -  
Connecting to Collections Care webinar.



[Willis Wright](#). (E. Sherman Wright Collection, Indiana Historical Society)

The most common grave items found in museums are grave stones. If the museum finds a grave stone in its collection, the first step is to determine where it came from. This can be a great task to give a genealogy-minded volunteer. Once the grave is identified figure out if the stone was removed so it could be replaced or if there is now an unmarked grave. Knowing whether or not the grave stone was officially removed helps guide the museum. When tombstones or other grave memorials are removed, paperwork must be filed with the county recorder. Regardless of whether or not there is another tombstone on the grave, the next step after identifying where it came from is to check with the county recorder to see if the appropriate paperwork for removal was filed. If not, then work with the county recorder or the [Indiana Department of Natural Resources](#) to fill out the paperwork and legally designate the grave stone as removed.

Although tombstones are the most common grave memorials, it is important to know that according to Indiana law ([IC 14-21-2-2](#)) a grave memorial is more broadly defined and includes “a gravestone, monument, grave marker or any other type of similar item.” So be aware that any item meant to mark a grave might fall under this definition and contacting the county recorder to find out about the required paperwork is a good idea.



[Decoration Day Ceremony in Cemetery](#). (Ben Winans Glass Plate Collection, Indiana Historical Society)

Once the grave memorial has been officially filed it can be dealt with in accordance to the



ethics, policies and procedures governing the museum's collection. If a museum chooses to deaccession the item, there are laws guiding its disposal. Usually, what happens with deaccessioned items is mostly governed by museum ethics and falls under one of three categories: transfer to a similar organization, sale or disposal. However, Indiana law ([IC 14-21-2-4](#)) specifically prohibits selling, or purchasing, items removed from cemeteries. According to the law this includes: grave memorial, grave artifact, grave ornamentation, cemetery enclosure or other commemorative item. Thus leaving museums with only the options of ownership transfer or disposal when it comes to these items. If you believe you are dealing with a deaccessioned item falling under one of these categories, it can be a good idea to contact Indiana DNR or the museum's lawyer to make sure the plan for these items is legally acceptable.

While tombstones and other grave memorials are the most likely items found in museum collections, other burial objects may be lurking in the collection or getting ready to come in as a potential donation. Indiana law ([IC 14-21-1-4](#)) defines burial objects as "any item intentionally placed in a burial ground at or near the time of burial." It can be best to presume anything found on the grounds of a cemetery or burial ground was placed there intentionally and associated with a grave or burial. If you think an item in your collection might fall under this definition, contact the DNR to discuss what to do next. Depending on whether or not the object was legally obtained determines whether or not it is considered looted property. Indiana Code 14 specifically outlines what to do with burial objects when they are initially found, whether underground or above ground ([IC 14-21-1-25.5 through IC 13-21-1-29](#)). In short, notify DNR. One of the best ways to make sure the museum has taken reasonable steps to ensure items in their possession are all legally obtained is to get as much of the story about the item as possible from the donor. If someone offers a grave memorial of any kind, ask if they have filed the appropriate paperwork with the county recorder and then note this on the Deed of Gift. Listen and look for red flags, like the mention by a donor or in correspondence or paperwork of an item being found at a cemetery or burial ground. If possible, follow up with the donor and dig for more information. If that is not possible consider contacting the museum's legal council or DNR to get guidance on making sure it is within the law for the museum to retain the item.



[34th Street Entrance to Crown Hill Cemetery, Indianapolis, Indiana](#). (Bass Photo Co Collection, Indiana Historical Society)

For museums in the state of Indiana, [Indiana Code 14: Natural and Cultural Resources](#) provides the guidance needed to make sure museum collection items associated with burials are being stewarded appropriately. The one exception is for burial (and ceremonial) items associated with Native American tribes. These items fall specifically under the umbrella of the federal Native American Graves Protection and Repatriation Act. So be sure to check there as well when dealing with anything that might have Native American connections.

Although it might sound scary to think about sorting out the legalities of grave memorials and

burial objects in the museum collection, the law provides guidance. If you have more questions than the law answers, or if you are unsure of the laws meaning, you can always reach out to the museum's lawyer or to the Indiana Department of Natural Resources. They are there to help.

A special thank you to Jeannie Regan-Dinius at the DNR whose presentation, "A Grave Matter in the Museum," at the 2017 Association of Indiana Museums conference provided the groundwork for this Collections Advisor.

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