

Guidelines for the discovery, handling and management of human remains

This guideline has been developed under the provisions of the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* (the Acts).

If you find bones and suspect they are human, it is essential that you do not disturb them. You must report the findings to the Queensland Police Service. The Police will determine if the remains represent a crime scene.

If it is established that the remains are not a crime scene and the Coroner is satisfied that the remains are ancestral Aboriginal or Torres Strait Islander remains, the procedures in this guideline will apply.

Guiding principle

Aboriginal or Torres Strait Islander people who have traditional or familial links with ancestral human remains are the owners of those remains.

Desired outcomes

This guideline has a number of desired outcomes: -

- While natural or human processes can inadvertently expose Aboriginal or Torres Strait Islander human remains, all attempts will be made to limit further disturbance.
- If further investigation and disturbance is required, procedures are in place for the proper handling of such remains.
- All such procedures are sensitive to the wishes of the Aboriginal or Torres Strait Islander owners of the remains.

Legislative framework

Criminal Code Act 1899

Under the *Criminal Code Act 1899*, it is an offence to improperly or indecently interfere with a human body or human remains, whether buried or not. An offence under this provision can result in imprisonment for up to two years.

Coroners Act 2003

The *Coroners Act 2003* provides that when human remains are located, it is the duty of the person finding the remains to report the findings to a police officer or Coroner.

The Coroner must stop investigating a death if the Coroner's investigation shows that the body is Aboriginal or Torres Strait Islander traditional burial remains.

Where this occurs, and the remains have been removed from the area where they were found, the Coroner will authorise the release of the remains to the Minister responsible for administering the Acts.

Aboriginal Cultural Heritage Act 2003 and Torres Strait Islander Cultural Heritage Act 2003

Under the Acts, Aboriginal or Torres Strait Islander people who have a traditional or familial link with Aboriginal or Torres Strait Islander human remains are the owners of those remains, regardless of who may have owned them before commencement of the Acts.

The Acts provide that where Aboriginal or Torres Strait Islander remains are in the custody of the State, the owners of the remains may at any time ask the State to continue to be the custodian of those remains or return the remains to them.

If a person, other than the State, has in their possession Aboriginal or Torres Strait Islander human remains to which they do not have traditional or familial links, then the person must take all reasonable steps to ensure that the human remains are taken into the custody of the chief executive administering the Acts as soon as practicable. Penalties apply if a person fails to do this.

If a person knows of the existence and location of Aboriginal human remains and is not the owner of those remains, the person must as soon as practicable (and after advising the Police or Coroner) advise the chief executive of the remains. Penalties apply if a person fails to do this.

Procedures for dealing with the discovery of Aboriginal and Torres Strait Islander human remains

In all cases when human remains are located it is important to remember:

- the discovery of any human remains must as soon as possible be reported to the police.
- it is an offence to interfere with human remains, whether buried or not.

The Police or Coroner must be advised of the presence of any human remains. An appropriate officer will then establish the area as a potential crime scene.

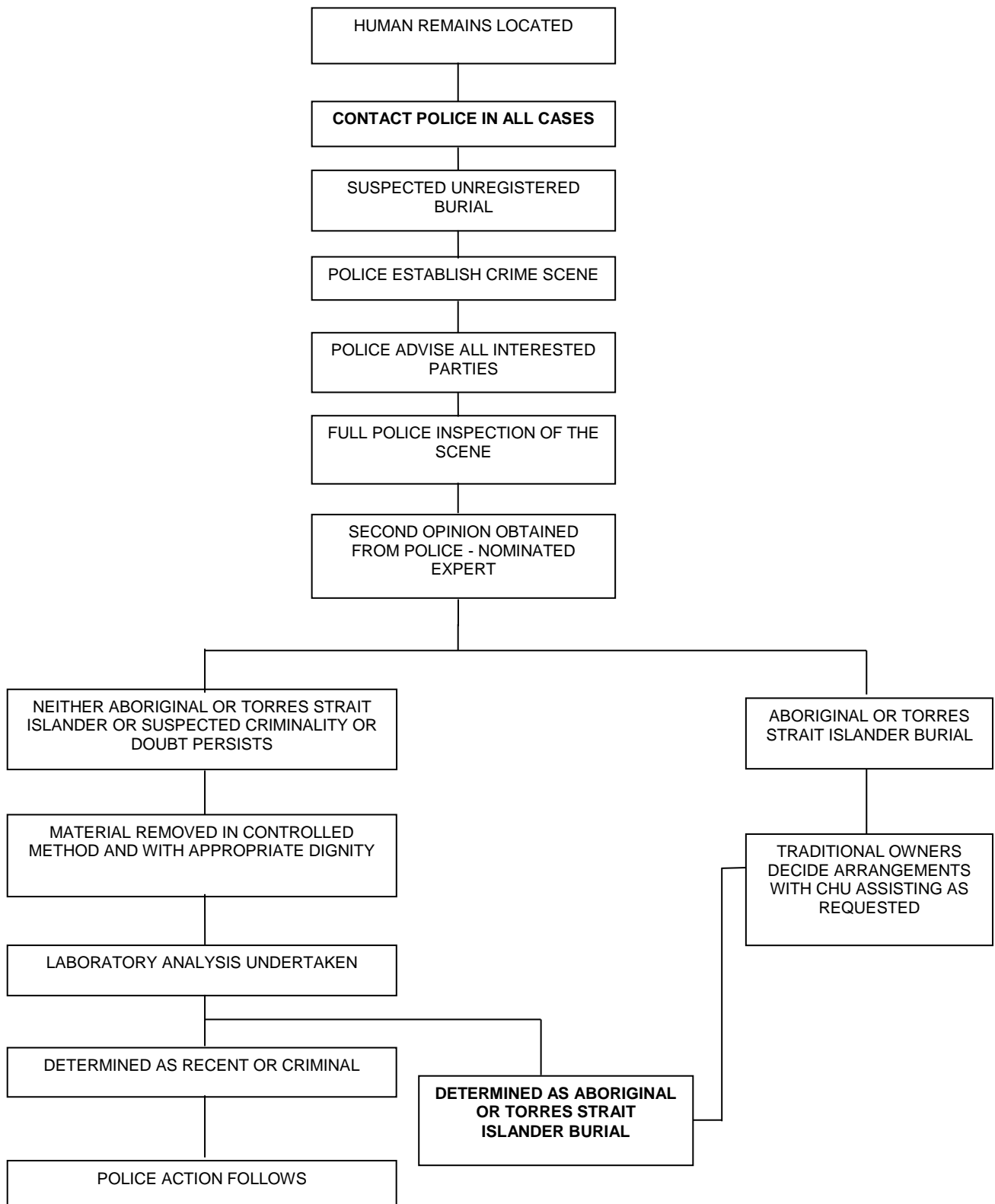
Police will undertake appropriate scientific or other procedures to assist the Coroner in making an appropriate determination about the remains.

If the remains are thought to be neither Aboriginal nor Torres Strait Islander, related to criminal activity or are of doubtful determination, the Police may remove the remains for further analysis.

If however the remains are determined to be ancestral remains without the need for removal, the relevant Traditional Owners of the remains will be responsible for their management

In cases where remains are removed by Police and subsequently determined by the Coroner to be of Aboriginal or Torres Strait Islander origin, the remains will be released to the Minister responsible for administering the Acts.

The Department of Aboriginal and Torres Strait Islander Partnerships is then responsible for coordinating the return of the remains to the relevant Traditional Owners.



Explanation of procedures

Police Officers maintain authority and responsibility for a potential crime scene at all times.

Police are responsible for forensic analysis and may seek advice from suitably qualified experts. Digital images may be sent to the relevant experts for an opinion to avoid the removal of the remains.

Advice on handling may be sought from appropriate sources.

Further information

For further information on this guideline, contact the Site Registrar.

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