



Truth Telling for Stolen Children - Records and the Yoorrook Justice Commission

Submission to the Yoorrook Justice Commission

Summary and recommendations

The Find & Connect web resource is funded by the Commonwealth Department of Social Services to document the history of child welfare in Australia. The resource assists people who grew up in out-of-home care, including Forgotten Australians, Former Child Migrants and members of the Stolen Generations, to discover and access information and records about their time in care. It is managed by the Find & Connect web resource team, based at the University of Melbourne. This submission is based on our experience with historical child welfare records (up to 1990) and safe access to them. Where some issues may be relevant to removed children more recently, we are not in a position to make recommendations for this cohort.

The significance of records to people who were removed from their family as children, that were created by care providers and institutions, has been well documented in inquiries such as Bringing Them Home, and by commissions such as the Royal Commission into Aboriginal Deaths In Custody, and the Royal Commission into Institutional Responses to Child Sexual Abuse.

For people who were in care, these records can contain information key to their identity - sometimes a parent's name, or the existence of unknown siblings. Sometimes a validation of scant or broken memories of a childhood.

"I wanted to find out my right age and where all my family came from and who I was related to."

Confidential submission 110, Queensland, in Bringing Them Home.



Providing access to records addresses ongoing injustices in healthcare and criminal justice, and can therefore provide parity with wider Australian society. Most of us are able to easily find documents necessary for housing and employment, or obtain licensing for driving, work and other official authorisations. When we know our family, we are aware of health issues that can inform our own medical choices, such as testing for breast cancer genes.

As such, the Find & Connect recommend that all organisations involved in the removal of Aboriginal children, including church and secular based organisations, are required to provide evidence to Yoorrook in a hearing. This hearing will determine the records that were created and kept about child removal, and the lives of the children that were removed. These records can then be stored in appropriate conditions, and provided in a culturally safe way to those they were created about, through an agency of their choice. A comprehensive guide, developed with First Peoples, that recognises the variety of records that are relevant. due to the suppression of their identity in care, is key to providing Truth to First Peoples. It will ensure that the history and impact of removal in Victoria is known, and publicly acknowledged.

These recommendations address the ongoing inequality between Victorian First Peoples and other Australians trying to discover their history in care, their families, and their experience of records access. It will allow individuals another opportunity to achieve parity across society, particularly in the health and legal systems, by providing the information required for identity documents and family histories. And it will provide important testimony to the history of the Stolen Generations and child removal in Victoria, providing detail, context and factual information that is currently missing.

The Find & Connect web resource recommends that the Yoorrook Justice Commission open a hearing, and an issues paper on records that will:

1. Compel all care providers and record holders to provide evidence relating to the access and conditions of records about Aboriginal children in care, including private and religious organisations

Outcome: Determines which records have been kept, who has ownership of these records, where they are stored, and their access conditions.

Yoorrook can compel both government and non-government agencies to provide evidence to the Commission. Government, church and charitable institutions were responsible for the removal of children from their families, and their ongoing 'care'. These institutions created records for individual children, and also administrative records



that provide an insight into the lives of these children. Where Stolen Generations were placed in institutions housing non-Aboriginal children, there is evidence that they were subjected to harsher treatment than other children, including violence and abuse. This evidence should be an important aspect of Truth Telling.

There is currently no way of knowing what records have been kept without agencies (and individuals) providing information about the records they hold, and the conditions in which they are kept. We understand that many records have been lost due to improper storage - these records tell the story of a child's life, and provide important insight into their family and their identity. It is also important that if records have been lost, organisations are open about this so that people don't continue searching, and can find support in coming to terms with the loss of this information.

There are competing accounts of what records have been kept, and where they are, and what has happened to them - the affidavit provided to Yoorrook by David Reid, former director of United Aboriginal Mission [Affidavit of David Reid, former director of the United Aborigines Mission \(UAM\)](#) is in direct contradiction to Aboriginal women who reported sighting records that are the subject of this affidavit <https://www.theguardian.com/australia-news/2023/sep/23/a-melbourne-office-held-vital-records-of-aboriginal-childrens-homes-how-did-they-go-missing>. Calling for direct evidence before the commission would determine the facts about what records were created, and if they still exist, where they are, or what happened to them.

Preventing access to records constitutes an ongoing attempt to eradicate identity. We support VACCA's recommendations on records ("Records, p31, https://www.vacca.org/content/Document/VACCA_Submission_Yoorrook_Dec%202022%20PUBLIC.pdf)

Records access is a deeply personal, and often traumatic, experience. The person accessing their records must have autonomy to decide how they approach their journey to determine their past, their identity, and the experience of their family. There is no one-size fits all. Multiple entry points, through varied Indigenous-led organisations, such as Link Up, and the Koorie Heritage Trust, will ensure that those searching for their stories can find the organisation that best suits them to assist in finding and accessing their records.

"The effect of seeing information which has been kept confidential, because it is private information, or because it was the practice in some States to document every governmental action and ungenerous remark of an administrator, can be devastating. Sympathetic counselling, especially by other Aboriginal people who have themselves been adopted or institutionalised, such as the Link Up staff, ought to be available to Aboriginal people who gain



access to records of their family. We should be mindful of the emotional hurt which can be caused. (Royal Commission into Aboriginal Deaths in Custody National Report Volume 2 page 78).”

“...the distressing personal backgrounds of Indigenous searchers, the difficulty of the process of searching for family information and the likelihood that the files will contain material that is upsetting all indicate the individual's need for pre-search counselling, support during the perusal of files and counselling subsequently. Indigenous family tracing and reunion services are available in most jurisdictions to assist Indigenous searchers in this way. Government record agencies may not be the most appropriate providers of the necessary support and counselling. However they must be conscious of the needs of applicants and have referral information on hand. Ideally initial applicant contact should be with another Indigenous person. In fact not even the specialist search services listed in the table above uniformly have either appropriate counselling services on-site or a standard referral protocol. No records agency provides resources for counselling equivalent to that provided for adoption information applicants in spite of the typically far greater harm caused by the removal policies and the grief experienced by Indigenous people now searching for family members.” (Bringing Them Home, Chapter 16)

2. Make recommendations around the preservation and access of records relating to First Peoples, including that appropriate storage and access requirements are made mandatory

Outcome: Records will be kept securely, and not be hidden or destroyed either wilfully or in inappropriate storage. Culturally safe records access processes will be mandated for First People seeking records.

Where records were kept by various organisations involved in the institutional care of children, most were ignorant of both the importance these records would come to have, and how to appropriately store them. This has meant the loss of records that held vitally important information, a loss that will continue until records are preserved appropriately.

Records have been kept in drawers, boxed up in humid or damp conditions, or abandoned in sheds for decades, which has led to their destruction. Guidelines for recordkeepers on maintaining and preserving records must be followed by agencies and individuals who have custody of Indigenous records.

Some record holders have catalogued the records they hold, and have made them searchable and accessible. There are still many that have been stored in boxes with unknown and unorganised contents, inaccessible to the people they were created about.



The Bringing Them Home Report, tabled in 1997 noted that *“Little effort has been made to identify all files which are of relevance to Indigenous people affected by forcible removal. Thus [a]t this stage, no government is able to provide comprehensive information on which records still exist and may be relevant to people tracing their families’* (Families on File page 20). In the nearly 30 years since its publication, governments and some charitable agencies improved their records access, however these organisations acted largely independently, and without proper guidance or any compulsion to do so other than their own conscience. Many did nothing, and records have been lost due to poor storage, are not indexed or easy to find, and are not provided in ways that acknowledge the trauma they contain. Where change relies on goodwill rather than mandated requirement, some organisations will do their best, but without proper guidance, frameworks, or funding. Others will do nothing at all.

Records access protocols must be underpinned by the [Tandanya - Adelaide Declaration](#), developed by the International Council on Archives Expert Group on Indigenous Matters, which:

“promotes a respectful ethical relationship between archival institutions and Indigenous communities to recognize the diversity of social meanings embodied in archival materials and the knowledge models that interpret them; 1(b) This Declaration recognizes that the successful cultural engagement of public archival representatives and Indigenous communities occurs within a safe and ethical environment of respectful encounter where diverse cultural heritage authorities may freely express and negotiate the values and assumptions that will guide an understanding of the past embodied in materials of memory; ceremony, cultural tradition and social protocol must inform this social engagement of knowledge keepers; 1(c) This Declaration recognizes traditional Indigenous knowledge models are built on ideas of space, community, spirituality and ecology; they are best understood through affiliated community representation.”

The Aboriginal and Torres Strait Islander Library, Information and Resource Network Inc ([ATSILIRN\) Protocols](#) were developed in order to provide a comprehensive guide for all records holders to provide safe access to First Peoples. Whilst it is broad in scope, it contains information that will assist in the development of safe records access for First Nations people who were removed from family, including using Indigenous thesauri for descriptions of records, and cross cultural training for all staff involved in records access. The protocols recognise the importance of welcoming First Nations people into bureaucratic processes that may be distressing, or prevent engagement with records holders, by calling on records holders to: *Encourage the use of the organisation's facilities as meeting places and resources for Aboriginal and Torres Strait Islander peoples, and Involve Aboriginal and Torres Strait Islander peoples in the planning, design and layout of libraries,*



archives and information services to create welcoming and suitable environments. (4. Accessibility and Use, ATSILIRN Protocols)

The “Access to Records by Forgotten Australians and Former Child Migrants: Access Principles for Records Holders, Best Practice Guidelines in providing access to records, June 2015 ([Principles and Guidelines](#))” were developed to provide safe, trauma informed access to records for people who were in care. These access principles aim to promote greater consistency in the ways that institutions that hold records about Care Leavers and Former Child Migrants respond to access requests, and to provide extensive records where available. The Royal Commission into Institutional Responses to Child Sexual Abuse endorsed those principles, noting also that the rights of the person accessing the records ‘should be recognised to the fullest extent’, and that ‘problems that some survivors experience in obtaining access to records may derive from the way in which some institutions choose to apply laws, rather than from the laws themselves’.

“Individuals whose childhoods are documented in institutional records should have a right to access records made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where a record, or part of a record, is withheld or redacted. Individuals should be made aware of, and assisted to assert, their existing rights to request that records containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.” (Royal Commission into Child Sexual Abuse Volume 8)

3. Recommend the development of culturally appropriate and accessible guides for First Peoples searching for their records.

Outcome: A comprehensive guide encompassing all records relating to Aboriginal children in care, including government, charitable and religious records, that is culturally appropriate and accessible to First Peoples searching for their stories.

Agencies involved in the out-of-home care industry created records about their work that provide an important insight into the lives of the children in their care. Admissions registers can verify where children were placed, and medical, punishment and activities records can provide personal information about children, as well as the broader culture of the home in which they were placed. Administrative records such as minutes also provide a wealth of information about the policies, attitudes and actions of the time. In some cases, individual records were also created about children.

A comprehensive listing of available records will allow people who experienced removal to discover records that were kept about them as an individual, and more general records that will assist them patch together their memories into a story of their life.



Determining which records exist, where they are, and the conditions in which they are kept is the first step in addressing the unequal histories between Indigenous and other Victorians. This is of particular importance in our state, where there were fewer segregated schools leading to difficulties in determining where Aboriginal children were sent, and even who they were.

Indigenous children removed from their families were placed into care with other children, often as a very small minority. This has meant that whilst First Nations children suffered worse abuse than others at the hands of racist staff, as adults they are now forced into seeking records from organisations who have little or no cultural knowledge or understanding that would assist in making records access safe.

Without institutions primarily or solely for First Nations children, their records were mixed with a much larger group - those of mainly white children. There was no requirement to note if a child was Indigenous in any formal way. This creates an additional barrier in that First Nations children were not always recognised in their files as Indigenous - some can only be identified by the racial slurs that were used against them.

"What was very disturbing ... was the way Aboriginality was identified was not by a mark on the file or by trying to slot kids into Aboriginal programs. It was sometimes just because racist terms appeared in the file [that I could tell the subject was Aboriginal]" (Linda Briskman evidence 134, Bringing Them Home, Chapter 16).

For Victoria's First Peoples, grappling with the legacies of the Stolen Generations and trying to make sense of their individual and family histories, access to records can also be the key to understanding their identities and connecting with culture.

In early 2023, the Yoorrook commission noted the impact caused by the Government failing to provide records in a timely manner. "The state doesn't get to decide which questions it will answer. Yoorrook asks questions and the state answers questions," commissioner Kevin Bell said. Commissioner Maggie Walter spoke to the frustration of First Peoples more widely when she made clear that "We expect more for our people."

Aboriginal children who were removed are now facing the same, and far more significant, barriers when attempting to access records that were created about themselves, their families, and their situation. There is no mandated requirement for record holders outside government to provide records, or even to provide information on the records they hold. Without the weight of a commission behind them, many who were removed from their families are alone in their search, and without the knowledge, ability or support to find the information they need to find their family, their nation, and their identity. These records also have a much wider impact on our understanding of



First Peoples history in Victoria. They hold the truth of separation, the underpinning causes and justifications for child removal, and are a stark testimony to the attempted cultural eradication and abuse of First Peoples in Victoria.

While some former care providers have understood their responsibilities in enabling access to the records they hold, others have historically been reluctant to allow access to records, concerned that they will provide a basis for redress claims for the abuse that often occurred in institutional or out of home care, particularly to Aboriginal children.

As well as benefiting the individual, records can establish an official history of the impact of colonisation on First Peoples in Victoria. We can better understand the movement of children away from their families, and the justifications and impacts of child removal. Where history has been written by the colonisers, correcting the official record with the experience of First Peoples is an important step towards Makarrata, and underpins the testimonies given in truth telling.

“Access to knowledge can assist: to reinstate pride in family experiences; enhance a stronger sense of identity; re-establish contacts with family members; reaffirm interaction with broad family networks; revive and maintain Aboriginal traditions ...; understand the historical background of contemporary personal issues ...; re-claim ownership of material pertaining to family life; develop resources ... and enhance research skills” (Patrick Dodson quoted in the National Report of the Royal Commission into Aboriginal Deaths in Custody Volume 2 on page 78).

Preventing access to records by those forcibly removed, whether by intention or ignorance, constitutes an ongoing injustice to both the individual and the community. These records, when viewed together, build a comprehensive history of generations stolen, the lives of the children who were removed, and the official justifications of a nation-wide injustice.

These records fill in the stories of institutionalised racism that are missing from our shared history, and its ongoing impacts on First Peoples throughout Victoria.

After all the inquiries and commissions into the various policies that saw Aboriginal children forcibly removed to missions, institutions and white families, and the many recommendations around safe records access, not enough has been done in this area. Implementation of safe, supportive records access, and the structural changes necessary to achieve that, have been largely overlooked.

The records of all children removed from their families are of such significance that the Royal Commission into Institutional Responses to Child Sexual Abuse devoted an entire



volume of their final report into records access (Volume 8, Recordkeeping and information sharing). This volume came about after survivors of abuse detailed the impact accessing records had on them in their testimonies to the commission.

The Yoorrook Justice Commission has the same opportunity to achieve parity of access to First Peoples more broadly, and to those children themselves, that is the standard for non-Aboriginal Australians. To do this, it will need to first determine which records still exist, create safe access protocols to these records, and compel charitable and church organisations, as well as government, to participate both in investigating and reporting on the records they hold, and making them available in a culturally safe way.

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