

wilam naling *... knowing who you are ...*

Improving Access to
Records of the Stolen Generations

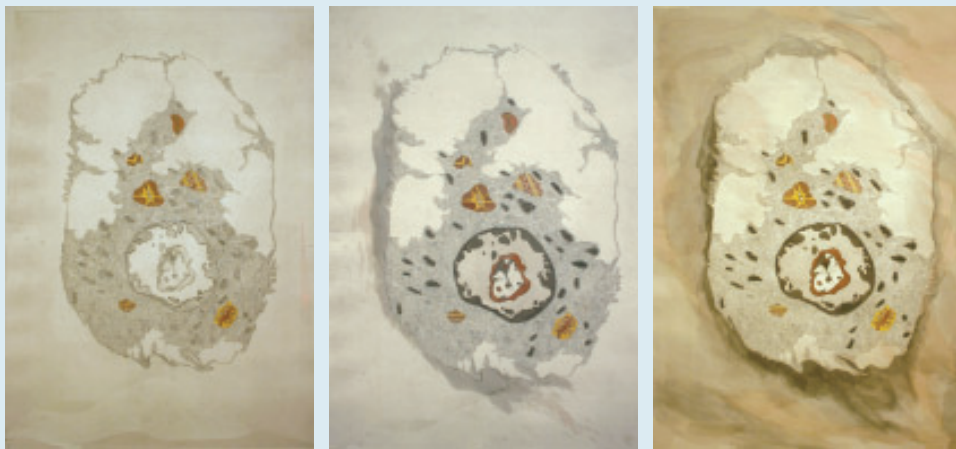
A Report to the Victorian Government from the
Victorian Koorie Records Taskforce



*Department for
Victorian Communities*

A Victorian
Government
initiative





Vicki Couzens

Untitled 2005 (right and cover detail)

Mixed media on paper

Photography: Asa Letourneau

This image is a depiction of a cell. The Cell appears as a landscape. It is a map or a landscape of potential; of beginnings; of where our memories are held. I believe that we carry our ancestral memories with us, waiting to be awakened. These memories are both on the physical and spiritual levels. It is these memories, this sense of belonging and connectedness which is the unique bond that we as Aboriginal people have with our Country.

As humans we are created from cells – potential and possibilities. We grow in utero and are born; we then progress and develop in stages throughout our life. Our growth in mental, spiritual and emotional capacities is parallel to and metaphorical for our physical passage through life. As we age we grow in knowledge and ability – thus sayings such as ‘the getting of wisdom’ and ‘the wisdom of the Elders’.

In this context of remembering and keeping records, this artwork fits with the role of the Public Record Office Victoria and its continuing work of ensuring that our memories are held for future generations.

Vicki Couzens 2005

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Improving Access to Records of the Stolen Generations
A Report to the Victorian Government from the Victorian Koorie Records Taskforce

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Records of the Stolen Generations

A Report to the Victorian Government from the
Victorian Koorie Records Taskforce

The name of this project, *wilam naling*, comes from the Boon wurrung/Woi wurrung language of one of the members of the Kulin nations, the traditional owners of the land where Melbourne is now situated. The word *wilam* means 'place/family/kin' and *naling* means 'to know'.

'wilam naling' expresses the objective of this project: to effect change in Victoria so that every Indigenous person is able to access information that will help them to establish their family background and their place. It acknowledges that records are an important way for people to find out and know who they are.

The Victorian Koorie Records Taskforce endorses the definition of 'Stolen Generations' outlined by the Victorian Stolen Generations Taskforce in 2003:

The term 'Stolen Generations' means any adult Aboriginal or Torres Strait Islander person separated at a young age from community, family, language, land or culture; and Stolen Generations could encompass any number of scenarios related to the removal of children from their family and culture, such as forcible removal, relinquishment at birth (under duress or otherwise), removal by deception, being fostered or adopted.'

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Foreword

Access to records is a crucial issue for Indigenous people, and the recommendations in this report have the potential to change the lives of countless individuals, families and communities.

As the Stolen Generations Taskforce acknowledged in 2003, improving the systems and supports for people undertaking family tracing is vital, if individuals are to progress through the stages of healing, reunion and participation.

The records relating to the removal of children from their families are therefore a vital resource for Indigenous people and a precious part of Victoria's cultural heritage. Despite the pain and sadness of the stories they can tell, we need to manage and preserve these records and respect their value. For many people, these records can hold the key to identity.

This report, with its new access framework for Victoria, provides clear and practicable solutions to the major barriers still facing Indigenous people searching for their personal records. These barriers were first made widely known in the *Bringing Them Home* report. Since 2001, the Victorian Koorie Records Taskforce has been consulting with Indigenous communities, service providers and organisations holding records to identify the access barriers particular to the Victorian landscape.

The project which led to this report has provided the Taskforce with an opportunity for more consultation with the community and

important stakeholders. More importantly, this project, funded by Aboriginal Affairs Victoria and delivered in partnership with Public Record Office Victoria, has provided the impetus for the Taskforce to devote its efforts to finding lasting solutions to access barriers. This report puts forward a vision for Victoria where efficient, culturally appropriate and cost-effective access to records is available for all Indigenous people. Endorsement of this new framework will lead to many benefits for individuals and families, and contribute to healthier, more connected and confident communities in Victoria.

In 2005, we saw years of work by the Taskforce coming to fruition, such as the publication of *Finding Your Story*, which will be a valuable resource for Indigenous people along their journey of family tracing. This report represents another important milestone for the Taskforce, and an opportunity for Victoria to comprehensively endorse the recommendations in *Bringing Them Home* relating to access to personal and family records. I am confident that this report provides a framework for us to work together to achieve real progress and lasting change in Victoria.

I have great pleasure in delivering this report to the Victorian Government on behalf of the Victorian Koorie Records Taskforce.

Jason Eades
Chairperson, Victorian Koorie
Records Taskforce

Abbreviations

AAV	Aboriginal Affairs Victoria
A&D	Arrangement and Description
AFRS	Adoption and Family Records Service (DHS)
ASA	Australian Society of Archivists
<i>BTH</i>	<i>Bringing Them Home</i>
CAARA	Council of Australasian Archives and Records Authorities
COAG	Council of Australian Governments
COFSTA	Council of Federal State and Territory Archives
DHS	Department of Human Services
DOJ	Department of Justice
DVC	Department for Victorian Communities
FIRB	Family Information Records Bureau (Western Australia)
FOI	Freedom of Information
KHT	Koorie Heritage Trust Inc.
LAC	Looking After Children
MCATSIA	Ministerial Council for Aboriginal and Torres Strait Islander Affairs
MOU	Memorandum of Understanding
NAA	National Archives of Australia
PROV	Public Record Office Victoria
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
VACCA	Victorian Aboriginal Child Care Agency Cooperative Limited
VCAT	Victorian Civil and Administrative Tribunal
VKRT	Victorian Koorie Records Taskforce

Executive summary

The issue of Indigenous access to records has been a high priority in Victoria since the publication of *Bringing Them Home* in 1997. It is widely acknowledged that access to records needs to be improved so that people removed from their families as children (often referred to as ‘the Stolen Generations’) can view information that may be vital to reconnection with family and community, establishing identity and progressing along the journey of healing.

Improving Indigenous people’s access to records held by Victorian government and non-government organisations will help to realise the vision put forward in *Growing Victoria Together* by addressing these strategic objectives:

- Building cohesive communities and reducing inequalities
- Promoting rights and respecting diversity
- Government that listens and leads.

The Victorian Koorie Records Taskforce (VKRT) has been active in Victoria since 2001 in addressing the access barriers facing Indigenous people. The Taskforce, whose secretariat is provided by Public Record Office Victoria (PROV), brings together representatives of government agencies and community services organisations holding records relating to Indigenous people removed from their families as well as service providers to the Stolen Generations.

The need for a project to tackle the remaining access barriers was highlighted in the report of

the Victorian Stolen Generations Taskforce in 2003. This present report is the outcome of a project funded by Aboriginal Affairs Victoria (AAV) for the Victorian Koorie Records Taskforce to report to the Victorian Government about how to improve Indigenous access to records. The project took its terms of reference from Chapter 16 of *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*.

This *wilam naling* report is the result of months of research and consultation by the VKRT with a range of Victorian and interstate stakeholders including government and non-government record-holders and service providers to the Indigenous community (see Appendix B for a list of organisations involved in the consultations). This project revealed several major access barriers still facing Indigenous record-searchers, including:

- A lack of awareness in Stolen Generations and Koorie communities about the existence of records, their whereabouts, people’s rights to access records and the support services that are available
- A lack of name indexes to make locating records easier
- The dispersal of records across a range of government and non-government organisations
- Discrepancies between access policies of government and non-government record-holding organisations

- A lack of options for Indigenous people to receive culturally appropriate supported release of records
- Restriction of access to identifying third-party information, due to strict or narrow interpretations of privacy and freedom of information legislation that are not culturally appropriate
- Extremely limited access to information and support for Indigenous people in custody (many of whom have been directly affected by child removal)
- The higher cost of record searching for people in regional Victoria
- Difficulties accessing records held by institutions in other states.

The recommendations put forward in this report address these access barriers and will lead to significant improvements to the systems through which Indigenous people access information about themselves and their families. Implementation of the recommendations will introduce a new framework for records access in Victoria.

The framework put forward by the Victorian Koorie Records Taskforce aims to deliver significant benefits to the Stolen Generations in terms of the three key areas in the Department for Victorian Communities (DVC) Outcomes Framework and aligns with the DVC objectives 'Communities that embrace diversity' and 'Communities that shape their own future':

- Improved services
- A more connected community
- Improved long term community strength.

The new access framework proposed in this report also has the potential to address barriers facing non-Indigenous people who were removed from their families as children. The

Senate Community Affairs Committee's *Forgotten Australians* report (August 2004) demonstrated that non-Indigenous children who experienced institutional or out-of-home care face similar obstacles to accessing personal records as the Stolen Generations.

Much work has already been done in Victoria to endorse the recommendations from Chapter 16 of *Bringing Them Home*, and the Victorian Koorie Records Taskforce has contributed significantly to an environment of close co-operation and information-sharing amongst record-holding organisations and service providers.

As such, endorsement of many of the recommendations in this report will not require major changes to existing service provision or legislative amendments. The plan for action put forward in this report is about building on past successes, formalising existing processes and agreements, and coming up with a streamlined, cohesive framework that can be adopted by all record-holding organisations in Victoria to deliver a better service to Indigenous people seeking access to personal records.

This report surveys the current landscape in Victoria and the range of systems and processes through which Indigenous people currently seek access to their personal records. It recommends a streamlining of these systems into one set of Common Access Guidelines, to be applied by government and non-government record-holding organisations alike. The signing of Memoranda of Understanding to improve co-operation between record-holders and service providers is also recommended. The establishment of a new Information and Referral Service will make it easier for members of the Stolen Generations to locate their records. Endorsement of these recommendations will establish a new access framework for people wishing to embark on the process of tracing their families.

This report identifies government agencies and community services organisations in urgent

need of one-off assistance from the Victorian Government so that they can manage and preserve records in their custody relating to children removed from their families, and administer access to them. No legislative change is recommended in this report, however several policy changes are put forward to address access barriers facing certain groups within the Indigenous community, particularly people in custody and people living in regional Victoria.

Access to records is not only an issue for adults who are seeking to reconnect with family and community today. The sensitive policies and thorough record-keeping practices

proposed in this report can help to ensure that children experiencing out-of-home care in the future do not have to face the same obstacles as previous generations when requesting access to their personal records.

Victoria is already at the forefront in tackling the access barriers identified in Chapter 16 of *Bringing Them Home*, and developing innovative solutions to the obstacles facing Indigenous people. The new access framework put forward in this report will provide a best-practice model for other jurisdictions in Australia to follow in their responses to *Bringing Them Home*.



Wally Cooper, Cummeragunja Elder, KHT Board member and member of the Stolen Generations visits the Victorian Archives Centre repository.
Photograph: Om Studios

Summary of recommendations

The recommendations in this report align with the Victorian Government's Indigenous Community Capacity Building Program. The Program consists of initiatives specifically aimed at improving the strength of Indigenous Victorian communities to enable them to build and develop their own sustainable future.

The Terms of Reference for the Victorian Koorie Records Taskforce as set out in Recommendation 23 of the *Bringing Them Home* report are to:

- develop Common Access Guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles
- advise government whether any church or other non-government record-holding agency should be assisted to preserve and index its records and administer access
- advise government on memoranda of understanding for dealing with interstate enquiries and for the interstate transfer of files and information
- advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information
- advise government on the need to introduce or amend legislation to put these policies and practices into place.

This report provides a series of recommendations responding to each of these Terms of Reference. A full explanation of all recommendations follows in Chapter 3 of this report.

In addition, this report satisfies Recommendation 17 of the *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (2005).

TERM OF REFERENCE 1

Develop Common Access Guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles

Recommendation 1: That Victoria establish a new access framework for records affecting Indigenous people. The framework should comprise:

- the establishment of an Information and Referral Service for members of the Stolen Generations wishing to locate their records, delivered by Public Record Office Victoria
- the Information and Referral Service entering into a series of memoranda of understanding with service providers and government and non-government record-holders that will regulate the processes for release of information
- the universal adoption of Common Access Guidelines by all record-holders to govern the release of information to Indigenous people.

Recommendation 2: That Public Record Office Victoria undertake an indexing project of all relevant Victorian records in its custody to produce an Indigenous name index.

Recommendation 3: That the Department of Human Services (DHS) undertake an archival Arrangement and Description project on critical records relating to child removal to facilitate better access, including the creation of an electronic cross-referenced name index.

Recommendation 4: That Victorian Government agencies using Freedom of Information (FOI) and Adoption Act processes to release information train their staff to identify what information is likely to be important to members of the Stolen Generations and the Koorie community, to appreciate the sensitivity of this information, and to understand the need for such information to be provided in a sensitive and supportive environment.

In particular, that DHS, as the agency with the most relevant information:

- pro-actively promote to Indigenous clients wishing to access adoption records the option of having a support person of their choice attend the mandatory Adoption and Family Records Service (AFRS) interview
- develop culturally specific information resources for the FOI Unit and AFRS's Indigenous clients
- continue in its efforts to develop policies and procedures to support clients accessing potentially distressing records through FOI processes
- explore the option of gazetting appropriate service providers to the Stolen Generations as 'approved counsellors' pursuant to the Adoption Act 1984
- continue to foster and develop relationships and communication processes with service providers to the Stolen Generations to deliver appropriate and quality services to Indigenous clients.

Recommendation 5: That the Department of Justice form a working group with Victorian service providers and representatives from agencies including the Department of Human Services and the Department for Victorian Communities to explore how to expand on existing work in the prison system to improve access to records for Indigenous people in custody.

TERM OF REFERENCE 2

Advise government whether any church or other non-government record-holding agency should be assisted to preserve and index its records and administer access

Recommendation 6: That the Victorian Government:

- take active steps to encourage non-government record-holders to open access to their records for Indigenous searchers wishing to reconnect with family or culture
- fund the development and delivery of information resources and training programs for non-government record-holding agencies
- provide resources in the form of grants to non-government record-holding agencies to undertake preservation, indexing and archiving projects of information relevant to members of the Stolen Generations
- ensure these grants are conditional upon the record-holding agency adopting the Common Access Guidelines and entering into a Memorandum of Understanding with the Information and Referral Service (see Recommendation 1).

TERM OF REFERENCE 3

Advise government on memoranda of understanding for dealing with interstate enquiries and for the interstate transfer of files and information

Recommendation 7: That the Victorian Government demonstrate national leadership through initiating the process of improving access to records nationally and that the Victorian Minister for Aboriginal Affairs, in his capacity as a member, place this issue on the agenda of the Ministerial Council for Aboriginal and Torres Strait Islander Affairs.

TERM OF REFERENCE 4

Advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information

Recommendation 8: That the Victorian Government release a policy statement which:

- commits the Victorian Government to the standards for records access set out in Recommendation 25 of *Bringing Them Home*, and implementation of a new access framework to help members of the Stolen Generations locate and access their records simply, efficiently and at no cost
- commits the Victorian Government to a national leadership role in the improvement of access to records held in different jurisdictions
- commits to the improvement of supported release of government records and integrated government services to assist Indigenous people, including those in custody, in re-establishing connections to family and culture.

Recommendation 9: That the Minister for Aboriginal Affairs include the development of good record-keeping and archiving skills in Indigenous community organisations as an integral component of the Indigenous Community Capacity Building Program.

Recommendation 10: That the Victorian Government fund a feasibility study to scope the potential to implement Recommendations 29a and 29b of the *Bringing Them Home* report, which relate to Indigenous repositories. This project should commence by assessing the extent and significance of records within Indigenous community control, and will identify the resources required to develop the capacity of the Indigenous community to manage, preserve, store, index and maintain its records.

TERM OF REFERENCE 5

Advise government on the need to introduce or amend legislation to put these policies and practices into place

The Taskforce does not consider any legislative change to be necessary in order to improve access to records for Indigenous people in Victoria. The policy and process changes put forward within the 10 recommendations in this report will greatly contribute to an environment in Victoria in which members of the Stolen Generations and the wider Koorie community can locate and access government and non-government records quickly and efficiently, and with appropriate support.

1. Introduction



1.1 The importance of records

Overlapping circles of extended family lie at the heart of the lives of most Aboriginal Australians. Networks of family relationships determine day-to-day activities and shape the course of destinies. From an early age Aboriginal Australians learn who belongs to whom, where they come from and how they should behave across a wide universe of kin. These are highly valued and integral components of Aboriginal cultural knowledge. And yet, these same familial systems have been the site of repeated attacks by successive waves of Australian governments, tearing at the very heart of Aboriginal family life.²

Access to ... records could provide the crucial missing link for Indigenous people searching for the families and communities from which they were removed.³

Seeking out personal and family records is of utmost importance to people who have been separated from their family and community.⁴

The importance of access to records to provide links to family, culture and land is the central theme of this report. Records (such as files, photographs, correspondence) may contain pivotal information that can assist Koorie people to re-instate pride in family experiences, re-affirm interaction with broad family networks, help to revive and maintain Aboriginal traditions, provide an understanding of the historical background of contemporary personal issues, and lead to the reclaiming of ownership of material pertaining to family life.⁵ In particular, accessing records can be a vital step in the healing process for people who were removed from their families as children.

Records are important not only to the members of the Victorian Indigenous community but also to the organisations within Victoria which offer services to the members of the Stolen Generations. These services are described in the next chapter of this report. All of these service providers are funded by the Federal or Victorian Governments and improvement in the access to records should offer these organisations improved service delivery and cost-effectiveness, which in turn provides a greater return to Government for its investment.



PROV records
Photograph: PROV collection

1.2 Background and Policy Context

In recent years, several major reports have identified issues relating to access to records as central to the health and welfare of Aboriginal people.

Indigenous workers have long recognised that access to past records is critical in assisting children separated from their parents to discover their true identity, locate family members and begin the process of reunion. To illustrate the extent of the ongoing impact of separation on families and concomitant demand for these records, the 2002 National Aboriginal and Torres Strait Islander Social Survey conducted by the Australian Bureau of Statistics stated that, nationally, 38% of Indigenous people reported they had either been removed themselves or had a relative who was removed as a child. About 8% reported that they themselves had been removed and then grandparents (15%), aunts and uncles (11%) and parents (9%).⁶

Royal Commission into Aboriginal Deaths in Custody (1991)

The ongoing impact of separation of Indigenous people from their natural families and resultant over-representation of Aboriginal people in child welfare and juvenile justice services as well as the lasting effects upon the spiritual and emotional well-being of Aboriginal communities were first brought to national prominence in the Royal Commission into Aboriginal Deaths in Custody in 1991.⁷

Bringing Them Home (1997)

Improving Indigenous access to records has been an issue in Victoria since the publication of the *Bringing Them Home (BTH)* report in 1997, which outlined the findings of the Human Rights and Equal Opportunity Commission's national inquiry into the separation of Aboriginal

and Torres Strait Islander children from their families. The report made a range of sweeping recommendations to help assist families affected by past policies of separation. Chapter 16 of *BTH* is of central importance to this report from the Victorian Koorie Records Taskforce as it focuses entirely on the issue of access to personal and family records.

The *BTH* report stated that:

[T]he responsibility of governments to provide this information to Indigenous people goes far beyond the standard justifications for FOI legislation, namely openness and accountability of governments and the individual's right to privacy. Indigenous people require personal, family and community information for even more fundamental reasons, namely to assist them to recover from a past marked by gross violations of their human and community rights by governments.⁸

Recommendation 23 of the report (below) sought the creation of a records taskforce in each jurisdiction. Whilst not all jurisdictions agreed to this, Victoria complied and created the Victorian Koorie Records Taskforce (VKRT), which began formal operations in 2001 under the Terms of Reference set out in Recommendation 23.

The Taskforce forms a network of government and non-government organisations holding records which affect Indigenous people, together with Indigenous organisations with an interest in identifying, preserving and accessing these records. Public Record Office Victoria has lead responsibility for Indigenous records issues and provides executive support to the Taskforce. This present report is the distillation of the findings of the Victorian Koorie Records Taskforce from its operations from 2001–2006 and its formal reporting against its Terms of Reference (which are set out in Chapter 3).

See 1.3.2.1 below for more detailed information about the Taskforce.

Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody (2005)

In 2005 a review was conducted into the Victorian implementation of the RCIADIC report and a specific recommendation was made regarding records access:

That the Department for Victorian Communities (Public Record Office Victoria and Aboriginal Affairs Victoria):

- (a) report to both the Minister for Aboriginal Affairs and the Stolen Generations Organisation of Victoria on the ongoing implementation and monitoring of Recommendations 52 and 53 and that these agencies:
- (b) review the level of supported access, service consistency and funding support relating to family and community records offered to the Indigenous community (including prisoners and offenders);
- (c) report to the Stolen Generations Organisation of Victoria on progress in implementing the 54 recommendations from the *Bringing Them Home* Report and the nine recommendations from Stolen Generations Taskforce *Report to Government*, April 2003, particularly with regard to sectorial reform, records access and developing an understanding between record holding agencies in Victoria and the Aboriginal community; and
- (d) provide ongoing access to archival records pertaining to the histories of Aboriginal people and communities.



PROV Reading Room, North Melbourne
Photograph: James McKinnon.

1.3 Government responses to *Bringing Them Home*

Whilst there was no requirement that jurisdictions respond to the recommendations (as this was not a Royal Commission), government responses to *Bringing Them Home* were provided in 1998 and have been the subject of ongoing monitoring and evaluation. The *BTH* report recommended that the Council of Australian Governments (COAG) take responsibility for national responses, however the only body which has been monitoring and evaluating the responses of all jurisdictions since 1998 is the Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA).

1.3.1 Federal Government responses to *Bringing Them Home*

It is not proposed to canvass in extensive detail the Federal Government's responses to *BTH*, however a \$63million package of funding was provided for reunion, counselling and oral history activities over five years (1998–2002), with a further \$57million for 2002–2006. The only national records project involved funding the National Archives of Australia (NAA) to create the Bringing Them Home Name Index. NAA's Index has made the task of locating records relating to particular individuals and families much simpler, and has vastly improved the accessibility of its holdings for Indigenous clients.

1.3.2 Victoria's responses to *Bringing Them Home*

The full extent of Victoria's responses to the broad recommendations in *Bringing Them Home* are detailed in other publications; however, the following key responses important to this present report are highlighted:

1997: 1st response accepting most recommendations

1998: 2nd response and progress report to *BTH*

1999: statement of apology to the Stolen Generations and joint sitting of Parliament

2000: 3rd response and progress report

2001: creation of the Victorian Koorie Records Taskforce and the Koorie Family History Service

2001–2002: widespread community consultation on the issue of access to records (the 'Finding Your Story' community forums)

2002: 4th response and announcement of a \$2.1million Stolen Generations Initiative

2003: report to the Victorian Government by the Stolen Generations Taskforce

2004: appointment of interim board to create a Victorian Stolen Generations organisation

2005: announcement in May of \$5.1million allocated to Stolen Generations Victoria Ltd (SGV) over four years, as part of the 'A Fairer Victoria' package. SGV formally incorporated in June.

The current Victorian Government has demonstrated leadership in the area of the Stolen Generations and placed the addressing of their plight as a threshold issue for achieving reconciliation with Indigenous Victorians.



Melissa Brickell, member of the Stolen Generations, holds a copy of *Finding Your Story*.
Photograph: Kate Morris

1.3.2.1 Victorian Koorie Records Taskforce (VKRT)

One of only three records taskforces active in Australia, the VKRT has been a model of cross-sectoral collaboration, finding innovative solutions to access barriers affecting the Indigenous community of Victoria.

A wide range of organisations have participated in the work of the Victorian Koorie Records Taskforce since its inception in 2001:

- Aboriginal Affairs Victoria
- Adoption and Family Records Service (DHS)
- Births Deaths and Marriages
- Centre for Excellence in Child and Family Welfare Inc.
- Freedom of Information Unit (DHS)
- Koorie Heritage Trust
- Link Up Victoria
- MacKillop Family Services
- Museum Victoria
- National Archives of Australia
- Public Record Office Victoria
- State Library of Victoria.

Since its inception, the VKRT has been working to foster co-operation between record-holders and record-searchers and to address the obstacles facing Indigenous people wishing to access records relating to themselves and their families. The VKRT meets regularly, and has embarked on several initiatives designed to address the needs of Indigenous people in Victoria seeking access to personal records.

The VKRT's achievements to date include:

- widespread community consultation on the issue of access to records (twelve 'Finding Your Story' community forums were held in 2001 and 2002 in metropolitan and regional Victoria – see below)
- training for community services organisations in November 2001 (a workshop on 'Preservation and maintenance of client records for community service organisations', auspiced by the VKRT, the Children's Welfare Association of Victoria and the Department of Human Services)
- training on records access for Stolen Generations support workers in 2002
- publication of *Finding Your Story: a resource manual to the records of the Stolen Generations* (2005).

Despite the significant progress achieved in Victoria since the publication of *Bringing Them Home*, the activities of the VKRT to date have confirmed that access to personal records remains a significant issue affecting members of the Stolen Generations in Victoria and that further work is required.

VKRT community consultations – outcomes

“There should be co-operation and cohesion between all the government and non-government bodies working towards the *Bringing Them Home* report recommendations.”

Comment from the ‘Finding Your Story’ community forum, Swan Hill, 2001.

The VKRT held twelve ‘Finding Your Story’ community forums in metropolitan and regional Victoria in 2001 and 2002.

The need for action to address barriers to access was a strong theme arising from consultation with Indigenous communities in Victoria.⁹

Another important issue raised was the difficulty of accessing records held interstate, and the financial cost of tracing and accessing records. Since its inception, the VKRT has made great progress in encouraging record-holding organisations to ease the financial burden on Indigenous people accessing their personal records. The recommendations put forward in this report will further improve this situation, and make the process easier and less time-consuming.

The issue of how to get access to records held interstate was raised many times at the forums. Some progress has been made since the publication of *Bringing Them Home*, but this access barrier requires a national approach in order for a lasting solution to be found. See Chapter 3 of this report for a discussion of the issue of interstate transfers and enquiries.

Finally, the most commonly recurring issue raised at the forums was the need for culturally appropriate counselling and support services for members of the Stolen Generations, their families, communities and friends. The establishment of the new organisation, Stolen Generations Victoria Ltd (see 1.3.2.3 below), will significantly address this need.

1.3.2.2 Victorian Stolen Generations Taskforce

In its report to the Victorian Government in April 2003, the Victorian Stolen Generations Taskforce also drew attention to the issue of Indigenous access to records.

Recommendation 8 of the report advocated that ‘the Victorian Koorie Records Taskforce be assisted to complete its work on developing an improved system of records access in Victoria as a matter of urgency’.¹⁰

The Taskforce stressed that the implementation of a new access framework in Victoria would form an integral part of the success of Stolen Generations Victoria Ltd (see below).

1.3.2.3 Stolen Generations Victoria Ltd

In August 2004 the Ministerially-appointed interim board to create the organisation recommended by the Stolen Generations Taskforce commenced operations. Stolen Generations Victoria Ltd (SGV) was formally incorporated in June 2005. At the time of writing, SGV’s Board of Directors had commenced planning for the organisation to begin operations in 2006, filling gaps in services and attempting to negotiate an integrated service strategy with the various service provision organisations throughout Victoria.

1.3.2.4 *wilam naling* report

Aboriginal Affairs Victoria provided the funding for the Victorian Koorie Records Taskforce to prepare this report to Government. As previously detailed, the Taskforce has operated from 2001–2006 and this *wilam naling* report arose from a recommendation by the Victorian Stolen Generations Taskforce in 2003.



2. The current landscape in Victoria

This chapter outlines the current systems in place through which people access records, and the support services available to assist Indigenous people with this process. The complexity of the task of providing support services to people who have been dispersed who wish to reconnect with family or culture has been the challenge of the Stolen Generations Taskforce and Stolen Generations Victoria Ltd, while the challenge to identify and streamline the multitude of government and private records is the role of the Victorian Koorie Records Taskforce.

It will be evident from the information detailed below that without the will and commitment of Government, improvement in a highly complex area can only be incremental and reliant upon goodwill. As will also be discussed later, in the absence of a framework to underpin Stolen Generations activities, commitment based upon goodwill has resulted in unintentional slippage from previous commitments.

2.1 Service providers for Stolen Generations

Aboriginal people wanting to identify and access their personal records have the choice of negotiating this process on their own, or of receiving assistance from a range of service providers. People who are eligible to undertake their search with a service provider benefit from the knowledge and networks of their case worker, and receive support in the form of counselling or case management. The Koorie organisations providing services to the Stolen Generations also act as advocates on behalf of their clients.

The major service providers in Victoria are Link Up, the Koorie Family History Service and the Bringing Them Home workers located in a number of Aboriginal community-controlled organisations around Victoria. From 2006, the landscape will change again when Stolen Generations Victoria Ltd commences operations as a dedicated service to assist the members of the Stolen Generations and the existing service providers.

The service providers have distinct eligibility requirements and are funded to provide different services (for example, only Link Up is funded to effect family reunions). For all of the service providers, assisting clients with family tracing is an important part of their work: accessing records is a vital element of this service. Any improvements to the system of accessing records will lead to improvements in service delivery by these organisations.

2.1.1 Link Up

Link Up Victoria is a Federally-funded program located within the Victorian Aboriginal Child Care Agency (VACCA). There is a Link Up service in every state and territory in Australia. Link Up works with clients over 18 years of age who have confirmed their Aboriginal or Torres Strait Islander heritage, helping them to trace family and reunite with family and community.

Services provided by Link Up include family tracing, family reunion and case management. As part of the search for a person's past history, Link Up Victoria provides support and

guidance to address issues of cultural identity and self-worth, and to resolve issues regarding community and family.

Access to records is vital to Link Up's work in the area of family tracing in order to piece together their client's story of removal and locate other family members. The types of records that Link Up workers use include adoption papers, birth, death or marriage certificates, war records, hospital registrations or records, electoral-roll check records, mission letters and records, and other types of archival material such as video or oral records.

2.1.2 Koorie Family History Service

The Koorie Family History Service was originally established by the Victorian Government as a three-year project (2001–2004). Currently, the Service is funded by AAV until June 2006. Unlike Link Up, it is not funded to undertake family reunions. The Family History Service provides assistance with family tracing to the following clients:

- the Stolen Generations, members of their family and their descendants
- people separated from their Koorie family through family breakdown or adoption
- Koories in custody
- the Koorie community.

The Family History Service helps clients to trace family and reconnect with history, heritage and culture. Workers provide information on Indigenous families in Victoria, record family trees, help clients to access records, or give support and advice to enable people to undertake family history research individually. A 'Search Pack' has been developed as a resource to assist individual researchers with this task. Other clients are referred to the appropriate service provider (for example, proof of Aboriginality requests are referred to the relevant Aboriginal co-operative).

2.1.3 Stolen Generations Victoria Ltd

The new organisation Stolen Generations Victoria Ltd is, at the time of publication, in development, with a view to beginning operations in 2006. This organisation is funded by the Victorian Government through AAV and is based on the recommendations of the community-led Stolen Generations Taskforce which reported to the Victorian Government in 2003. That Taskforce analysed the current service delivery to the Stolen Generations in Victoria and suggested that improvements in co-ordination of services (some funded by the Victorian Government, others by the Federal Government) and gaps such as post-reunion counselling could all be addressed by the creation of an organisation dedicated to the unique needs of the Stolen Generations.

2.1.4 BTH workers

The Federally-funded Bringing Them Home workers are located throughout Victoria in Aboriginal Co-operatives and provide support to members of the Stolen Generations and their families. BTH workers provide a critical service to people in Victoria, including those located outside of metropolitan Melbourne, and work through their Aboriginal Community Controlled Health Organisations to develop links between families and other support services available locally or regionally. There are currently 13.5 BTH positions located within Victoria.

For more information on service providers in Victoria, refer to the Stolen Generations Taskforce *Report* (2003), which can be obtained from Aboriginal Affairs Victoria.

Key findings from the consultations

In the course of consultations with service providers to the Stolen Generations, some key themes emerged. Service providers reported that their work helping people to locate and access their personal records was made more difficult, complex and time-consuming by the following factors:

- the dispersal of a person's records across a range of government and non-government organisations
- a lack of name indexes, making the search process longer and more complicated
- the 'red-tape' and paperwork that researchers or their agents are required to negotiate before accessing records
- the different access regimes for government and non-government records, and the different policies adopted by various record-holding organisations.

The following section expands on these major access barriers facing not only service providers to the Stolen Generations, but also people conducting their own search for their personal records.

2.2 Record-holding organisations in Victoria

Broad summary

Records relevant to forcibly removed children and their families – records which could assist searchers to discover their true identity, to locate family members and to begin the process of reunion – were usually created by a range of agencies: protection boards, police, welfare departments, adoption agencies, education departments, hospitals and missions among others.¹¹

This section provides some brief information about the range of organisations in Victoria who now hold the records documenting Indigenous children's time in institutional care. Government and non- government organisations are treated separately, as these are currently under different obligations to provide access to records.

From the outset the Victorian Koorie Records Taskforce has noted the many factors which make an individual's search for records such a difficult and often painstaking task. The major obstacles are:

- the dispersal of records across a range of record-holding organisations
- the withholding of vital third-party information when people seek access to records
- the lack of support available to people throughout the process of accessing records.

Perhaps the major complicating factor is the dispersal of records across a range of government, church and non-government organisations. There is no central repository for records relating to Aboriginal children removed from their families. Piecing together family histories from very incomplete records, often from only slender leads, is a challenging task, even for experienced professional researchers. In addition, an individual may also have records relating to multiple placements.¹²

This dispersal of records can complicate the process of family tracing. In order to locate

records (let alone access them), the searcher needs to know which organisations and authorities were involved in their removal and their out-of-home care. The fact that separation occurred when the person was a child, or even a baby, complicates the process even further.

As will be discussed below, there are ways to make the task of searching for records less difficult and less time-consuming. However, even with the help of finding aids and tools such as indexes, the fact remains that, in most cases, in order to locate all personal records relating to an individual, a range of record-holding organisations will need to be consulted.

Another major problem facing record-searchers is the withholding of third-party information, under the terms of legislation set out in the Freedom of Information and Information Privacy Acts. In many cases, it is precisely this third-party information that people want when they request their personal records for family tracing.

People who access their records from government and non-government agencies also need to be provided with appropriate support throughout the process of release of personal information.

Implementation of the new access framework detailed in Recommendation 1 of this report will address many of the access barriers and reduce the red tape and 'run-around' associated with the search for records.

2.2.1 Government records

A wide range of government agencies were involved in the separation of Aboriginal children from their families, as well as for the provision of out-of-home care and other services such as health, welfare and juvenile justice. The surviving records of these Victorian government agencies' interaction with members of the Stolen Generations can be found in all of the following places:

- the agency that created the records, or its successor agencies (eg. many records of the Children's Welfare Department are now in the custody of the Department of Human Services, which took over this function)
- Public Record Office Victoria, the state's archival authority, which preserves all records of government agencies deemed to be of permanent value
- National Archives of Australia, which is responsible for the archives of Commonwealth Government agencies. In Victoria, there is the further complicating factor that many State Government records are held by NAA due to legislation in 1975 that saw the transfer of Victorian responsibility for Aboriginal affairs pass to the Commonwealth, with a resultant transfer of pre-1975 records to NAA's collection).

An individual's right to access personal information in government records is enshrined in a range of Victorian legislation, such as the Freedom of Information Act 1982, the Information Privacy Act 2000 and the Health Records Act 2001.

However, guaranteeing a legal right of access does not ensure that access will be available in practice.¹³ There is a clear need for a framework in Victoria that establishes new policies and practices and removes many of the barriers facing Aboriginal people wishing to access government records.

The information in this section provides background to the recommendations put forward in Chapter 3. It sets out the different ways that people can access their government records, the access barriers they may currently encounter and efforts made to date by different government agencies to address access barriers for Indigenous people. The new access framework detailed in the following chapter will establish an environment where these access barriers can be adequately addressed.

2.2.1.1 Freedom of Information

Many members of the Stolen Generations obtain access to their personal government records via an application under the FOI Act. The application is made to the agency that originally created the records (or its successor agency). Most of the records relevant to the Stolen Generations were created by the Department of Human Services or its predecessor agencies (see Appendix D for a list of these agencies).

Regardless of the location of the records, the process is the same: the record-searcher submits a request in writing to the government department, including information about what records s/he is seeking access to, and proof of identity. A standard fee applies to each FOI request (currently \$21.00 – although this can be waived in cases of financial hardship).¹⁴ An Assessing Officer then considers the request and makes a decision as to what records may be released to the applicant.

Key findings from the consultations

Indigenous clients attempting to access their personal records through the provisions of the FOI Act can face significant barriers. The major barriers are:

- The FOI Act provides for the withholding of documents containing third-party information where release would be unreasonable. The nature of Indigenous family and kinship networks may not always be apparent to Assessing Officers, who may therefore be conservative when determining what may be released.
- The FOI Act makes no provision for applicants to receive 'supported release' of potentially distressing documents.

The FOI Unit within DHS is very aware of these access barriers and has been working in recent years to address them. DHS estimates that

around 30% of clients accessing their personal records from the Department are former Wards. As was acknowledged in the *Forgotten Australians* report, former Wards – Indigenous and non-Indigenous – are a client group with complex needs.¹⁵

Withholding of third-party information

Sometimes not all information within the records will be released under the FOI Act. Personal information about other persons mentioned in a document relating to an individual may be deemed to be exempt from release under the Act where release of this third-party information is considered unreasonable. Commonly, this information is not released to the applicant in order to protect the privacy of third parties. In such cases, it is possible that information on a record relating to any person other than the applicant will be ‘blanked out’ before the records are released.

The blocking of third-party information can be extremely frustrating and upsetting for people using their personal records for family tracing: in many cases, it is precisely this third-party information that they need to access. The *Bringing Them Home* report was unequivocal in recommending that governments transcend FOI barriers in these circumstances and adopt a policy position of releasing this information.

Currently, whether or not and to what extent third-party information is withheld from a record requested under FOI depends very much upon the way the legislation is interpreted by individual Assessing Officers within an agency.

This barrier is currently being addressed by the Department of Human Services. In recent years, acknowledging the unique needs of former Wards of State including the Stolen Generations, DHS’s FOI Unit has taken steps to ensure that its Assessing Officers interpret the legislation in a liberal and flexible way when considering applications from people removed from their families as children. The training of

FOI Unit staff is helping DHS move towards flexible and compassionate interpretation of the FOI Act’s privacy exemption to allow people who were removed into care to identify their family and background.

Recommendation 3 of this report calls on the Victorian Government to support DHS in its efforts to train its staff on releasing records to members of the Stolen Generations and the Koorie community in a sensitive, supportive and culturally appropriate manner. Further training for FOI Unit staff is recommended, to assist the Department in its move towards achieving a ‘compassionate and flexible interpretation’ of the FOI Act, as called for in Recommendation 16 of *Forgotten Australians*.

Further training in Indigenous kinship, relational ties and the unique needs of the Stolen Generations is also strongly recommended for FOI Unit staff. For Indigenous people seeking access to information on third parties in their personal records, there is the added complication that the Indigenous and mainstream communities can interpret ‘family’ very differently. Some organisations might recognise an individual’s right to identifying information about family members, meaning the individual’s parents and siblings. However, Indigenous communities take a broader view of family, which encompasses grandparents, cousins, uncles and aunts. The protocols adopted by the Koorie Heritage Trust’s Family History Service define ‘immediate family’ as anyone related to a person’s original ‘bloodline’. The point was made in one consultation with Koorie service providers that most organisations would be unable to judge which third parties on a person’s file were related to that person.

Supported release

Another problem associated with the release of documents under the terms of FOI legislation is the lack of support available to applicants.

Consultations for this project generated comments about the ‘insensitivity’ of this legislation and concerns that records which had the potential to cause extreme distress were simply put in the mail with no regard for how the applicant might react to them. The Act sets out no requirements for which documents require supported release.

This issue is also being addressed by DHS. Many FOI applications by Indigenous and non-Indigenous former Wards are now handled by the Department’s Adoption and Family Records Service (AFRS – see 2.2.1.2 below). AFRS staff have the training and expertise to offer clients supported release of their records, such as counselling. The release process of FOI records through AFRS is similar to the release of adoption records, with an emphasis on guiding the client through the process of records release and providing support where required.

Since August 2005, FOI requests from people who were Wards of the State up until 1985 have been handled by AFRS. Former Wards whose orders expired after 1985 still access their records through the FOI Unit of DHS.

The FOI Unit has been exploring ways that its staff can be more involved in supporting clients through the release process. Recent initiatives include:

- the employment of a Senior FOI Officer/Social Worker who serves as the initial contact for clients requesting the release of records. This position is helping the FOI Unit learn about the particular issues and identify the needs of its clients, particularly former Wards, from the very beginning of the release process. Following the worker’s initial contact with the client, individuals needing extra support or one-on-one guidance and advice are identified and, where the applicant desires this, placed into contact with appropriate support services.

By coming to know the circumstances and issues of each FOI applicant, Assessing

Officers are better informed when deciding how much information concerning third parties it is reasonable to release to the applicant.

- the drafting of fact sheets to be sent out with records to provide information about the possible effects of accessing records and supports available.
- plans to introduce an optional tick-box on the FOI application form so that applicants can identify themselves as Indigenous if they choose.
- the presentation of records in a special, acid-free box that can be used to store the records long-term in a manner that minimises deterioration over time.

It is recommended that DHS be supported in its efforts to improve service provision to Indigenous and non-Indigenous clients removed from their families as children, and to develop new policies and procedures to support clients throughout the release of potentially distressing records. One welcome initiative would be further training for FOI Unit staff about the possible effects of accessing personal records, and guidance on how to manage the release process to minimise the negative effects on their clients.

Cost

The Victorian Government has previously committed to a waiver for Indigenous searchers as a part of its response to the *Bringing Them Home* report.¹⁶ Whilst this commitment was made by a previous government, the Taskforce seeks from the present Victorian Government an affirming policy commitment and steps taken to ensure it is embedded in practice (see Recommendation 8 of this report). This would remove once and for all the burden of FOI application fees on Indigenous former Wards wishing to access their government records.

2.2.1.2 Adoption and Family Records Service

Many people will access government records relating to themselves through the Adoption and Family Records Service (AFRS) within DHS. AFRS provides information, search assistance to locate family members, counselling, advice and referral for persons who have been parties to adoption in the past. As discussed in the previous section, AFRS also releases personal records to many former Wards of State.

The Victorian Adoption Act provides that in order for an individual to access adoption records, s/he must attend an interview with an approved adoption information counsellor. This process ensures that before adoption records are released, the individual is made aware of the contents of the records and the possible effects and consequences of accessing them, and provides opportunities for discussion and support.

AFRS also offers services to people who were Wards of State in Victoria prior to 1985. These individuals can make FOI applications for access to their records through AFRS. Former Wards accessing their records in this way have a counsellor assigned to help them with supported release, counselling, mediation and assistance with searching for family members.

Key findings from the consultations

The adoption interview requirement

Some service providers to the Stolen Generations have expressed concern that the interview requirement in the Victorian adoption legislation can have the effect that a person's Indigenous support worker (for example, BTH worker or Link Up case worker) can be left out of the process when AFRS releases adoption files to Indigenous clients. (In contrast, there is no legislative requirement for an interview to take place when AFRS is releasing records to Indigenous former Wards of State.)

Consultations with Indigenous service providers revealed a strong perception that the Victorian Adoption Act's requirement for an interview to take place with an approved counsellor before adoption records are released presents a barrier for some Indigenous people. This requirement was seen as leaving an Indigenous person's support worker (such as their Link Up case worker or BTH worker) 'out of the loop', with the potential for the client to experience a lack of support and suffer distress.

AFRS is committed to providing a flexible and responsive service to its Indigenous clients, within the requirements of the Adoption Act. Some measures that AFRS has taken to date to address the needs of its Indigenous clients are:

- offering Indigenous clients the choice of having their own support person (such as a family member, friend or worker) present during the interview and release process
- conducting the mandatory interview off-site, at a location of the client's choice (such as at their home, in a park, a Link Up office etc)
- informing Indigenous clients of culturally appropriate supports available.

It is recommended that available options such as these continue to be actively promoted to AFRS's Indigenous clients as well as to organisations providing services to the Stolen Generations. The development of specific information resources for AFRS's Indigenous clients (see Recommendation 4 of this report) will help to address the barriers (perceived or otherwise) posed by the Adoption Act.

Some service providers to the Stolen Generations consulted for this project called for Indigenous adoptees to be given the choice of bypassing the AFRS interview altogether, and having their records sent out instead to an Indigenous support worker (such as a BTH worker) who would release the information to their client.

This is currently not possible; however Section 52(c) of the Adoption Act does provide for appropriate persons to be gazetted as 'approved counsellors'. Services to members of the Stolen Generations could be improved if the Secretary of the Department of Human Services gazetted workers at Link Up, the KHT Family History Service, Stolen Generations Victoria Ltd and the regional BTH Workers as approved counsellors under the adoption legislation.

The gazetting of Stolen Generations workers as approved counsellors would enable these workers to release adoption information to their clients and maintain consistency of service delivery for those searchers already linked in with Stolen Generations service providers. It would also address another barrier, that some Indigenous record-searchers are reluctant to visit a mainstream agency, located within a government department.

Gazetting Stolen Generations workers as approved counsellors would not only offer more support to the individual but enable the case worker to closely monitor the status of the client, particularly if critical events are reached in the disclosure of information. For example, clients may become aware they were told untruths as a young person about a parent

having died or discover that their search will not be able to find family. Stolen Generations case workers indicate that the psycho-social well-being of their clients can be significantly affected by the process of having records released to them and self-harming behaviours or critical life events can occur in the aftermath.

It is recommended that DHS explore the possibility of gazetting appropriate service providers to the Stolen Generations as 'approved counsellors' under the Adoption Act, to provide Indigenous searchers with the option of bypassing the AFRS interview to access their adoption records (see Recommendation 4).

In the meantime, in cases where a client is already linked in with a service provider such as Link Up, it is important that AFRS keeps the client's case worker informed throughout the release process (provided that the client is happy for this to take place). In the consultations for this report, some service providers remarked that Indigenous support workers were not automatically being advised when their clients had attended an AFRS interview and had records released to them. Some stakeholders expressed the opinion that this lack of involvement made their work as case managers very difficult and left clients without culturally appropriate support at a potentially distressing time. Such views need to be balanced against the importance of client confidentiality and each client's individual choices about who is to be involved in the process of having records released.

In many cases, the client would benefit from increased co-ordination and better communication between AFRS and Indigenous service providers. In other cases, an Indigenous client might prefer to deal only with AFRS support workers. Ultimately, what is most important is that AFRS inform its clients of the range of support options available to them, that AFRS continue to develop its relationships with service providers to the Stolen Generations, and that AFRS's service provision be guided by the choices of each client.

2.2.1.3 National Archives of Australia

Access to records relating to the Stolen Generations in the custody of NAA's Melbourne branch is subject to the Archives Act 1983 (Commonwealth). As a general rule, when 30 years have lapsed since a record's creation, it is in the 'open period' and accessible to the public. But like the Public Records Act (see 2.2.1.4 below), the Archives Act provides for certain information in records to be closed. Therefore, NAA records older than 30 years can still be blocked from public access if they contain personal information.

As an example of good practice, NAA has negotiated a Memorandum of Understanding with VACCA (the home of Link Up Victoria) to enable members of the Stolen Generations to access personal information in open-period (i.e. older than 30 years) records for the purpose of re-establishing family and community links. Under the MOU, an individual can also access information that is normally exempt from public access, provided that

- the applicant (or agent of the applicant) does not reveal sensitive information about another person without the consent of that person
- the applicant (or agent of the applicant) undertakes to safeguard sensitive information contained in copies of records
- information obtained under the MOU be used for the sole purpose of re-establishing family and community links.

Key findings from the consultations

Memorandum of Understanding

The MOU between NAA and VACCA has led to an efficient process whereby Indigenous searchers can access information about third parties for the purpose of re-establishing family and community links. This agreement is a useful model for the proposed MOUs between other Victorian record-holders (see Recommendation 1 of this report).

BTH Name Index

NAA records have been made more accessible to Indigenous people with the existence of the Bringing Them Home Name Index. This Index was the outcome of Federal government funding in the wake of the *Bringing Them Home* report (see 1.3.1 above) for NAA to index critical records relating to Indigenous people (such as the records of missions and stations) held in its Canberra, Melbourne and Darwin branches. NAA's Index has made the task of locating records relating to particular individuals and families much simpler, and vastly improved the accessibility of its holdings. NAA's BTH Name Index provides a model for the Indigenous names index proposed for records at Public Record Office Victoria (see Recommendation 2 of this report).

2.2.1.4 Public Record Office Victoria

Since 2001 and the establishment of the VKRT, PROV has taken a lead role in government and non-government record-holders' responses to *Bringing Them Home*. PROV was established in 1973 as Victoria's archival authority. Its collection documents the activities of government in Victoria since the earliest days of colonial administration in 1836.

The Public Records Act 1973 governs people's access to records within the custody of PROV. The Act states that all records transferred into the custody of PROV from government departments are 'open' and available for any member of the public to access.

The exception to this is records that are closed under the Public Records Act, either because they are very fragile, or because they contain personal information.¹⁷ Other classes of records (such as Cabinet documents) can be closed by the Minister for a period of 30 years.¹⁸ Such records are closed to the general public under the Act when they are transferred into PROV custody.

Key findings from the consultations

Freedom of Information

Records at PROV being sought by members of the Stolen Generations are very likely to fall into the category of closed records. Records relating to child removal (such as case files, court cases and institutional records) will invariably contain personal information. A common approach is to close personal records relating to adults for 75 years from the date of their creation, and records relating to children for 99 years.

While the Public Records Act closes such records to access by the general public, individuals to whom the records relate still have the right to access their personal records. However, this access must be administered by the agency that created the records, not by PROV.

Most members of the Stolen Generations wishing to access personal records in the custody of PROV will be required to make an application under FOI to the agency that created the records (most likely, the Department of Human Services). Once the FOI application is made, PROV delivers the records to the agency for an assessment and release.

Therefore, the changes put forward in Recommendation 3 of this report to facilitate the release of records through FOI will help to improve access to records in PROV custody, as well as to records held by government agencies such as DHS.

Name Index

In addition to personal records relating to children in institutional care, PROV has many records in its custody that are of great potential value to members of the Stolen Generations and the wider Indigenous community in Victoria. Examples would include the records of

the Aboriginal Protectorate in the nineteenth century and the records of the Aboriginal Welfare Board from the mid-twentieth century. These records contain a wealth of information about Indigenous culture, families and land in Victoria, dating back to the first contact between Indigenous Victorians and the colonists.

Currently, these historical records of Indigenous Victoria are under-utilised as a resource, largely because the lack of a name index makes access difficult and time-consuming for researchers. The Victorian archival records held by PROV would benefit greatly from a name indexing project in order to reduce the amount of time spent searching through records. The Taskforce recommends that the Victorian Government provide funding to PROV to undertake an indexing project similar to and built upon the experience of the National Archives of Australia Bringing Them Home Indexing Project (see Recommendation 2).

2.2.1.4 Non-government records

Key findings from the consultations

Many records documenting the removal of Aboriginal children from their families were created by, and are now held in, the collections of community services organisations (including faith-based organisations and former orphanages). Some community services organisations have deposited their records in the collections of state libraries (for example, the State Library of Victoria now holds the records of the Children's Protection Society).

Different access regimes

The obligation to provide access to personal information under FOI legislation does not extend beyond the public sector, with the effect that non-government records are covered by different access policies and practices from the government sector. As was acknowledged in *Bringing Them Home*, the variety of procedures for accessing government and non-government records creates a complex and confusing scene – another barrier to access to personal records by members of the Stolen Generations.

In recent years, record-holding community services organisations in Victoria have come under new legislative requirements with regard to the retention and release of personal information in their custody. For example, community services organisations providing services on behalf of the government (such as out-of-home care) have to comply with the provisions of the Information Privacy and Health Records Acts. Therefore, some non-government records are covered by legislation intended for government records.

Information Privacy Principle 6 in the Victorian privacy legislation sets out an individual's right to seek access to personal information. Some Victorian community services organisations,

although not legally bound by privacy legislation, model their own access policies on the Information Privacy Principles.

In terms of Commonwealth legislation, the Privacy Act 1988 now applies to the non-government sector (including the corporate sector). Information Privacy Principle 6 within the Commonwealth Privacy Act relates to access to records containing personal information and sets out an individual's right to personal information. It states:

Where a record-keeper has possession or control of a record that contains personal information, the individual concerned shall be entitled to have access to that record, except to the extent that the record-keeper is required or authorised to refuse to provide the individual with access to that record under the applicable provisions of any law of the Commonwealth that provides for access by persons to documents.¹⁹

Not surprisingly, consultations for this project have revealed that there is much confusion in the non-government sector about the responsibility of organisations to provide access to records in their custody while simultaneously protecting their clients' rights to privacy. There is anecdotal evidence of organisations destroying or de-identifying client records in

their archives, due to misinterpretation of State and Commonwealth Information Privacy Principles. Clearly, such records management practices could lead to disastrous outcomes for people seeking access to information about their time in institutional care and wishing to reunite with family members.

The new access framework put forward in this report (see Recommendation 1) calls for changes in the provision of access to records held by community services organisations, so that one common system of policies and practices applies to all records relating to the Stolen Generations. This will help to resolve a lot of the confusion on the part of both searchers and record-holding agencies.

Need for training and resources

There is an urgent need for training to be provided to the community services sector, so that the responsibilities and obligations of these organisations under privacy legislation are clearly understood and properly implemented (see Recommendation 6 of this report). This will ensure that client information is preserved in line with privacy guidelines, and that such information is accessible to the people entitled to it.



3. Recommendations

The recommendations in this report align with the Victorian Government's Indigenous Community Capacity Building Program. The Program consists of initiatives specifically aimed at improving the strength of Indigenous Victorian communities to enable them to build and develop their own sustainable future.

The recommendations are set out according to each of the Victorian Koorie Records Taskforce's five Terms of Reference.

3.1 VKRT Term of Reference 1: Common Access Guidelines

Recommendation 1: That Victoria establish a new access framework for records affecting Indigenous people. The framework should comprise:

- the establishment of an Information and Referral Service for members of the Stolen Generations wishing to locate their records, delivered by Public Record Office Victoria
- the Information and Referral Service entering into a series of memoranda of understanding with service providers and government and non-government record-holders that will regulate the processes for release of information
- the universal adoption of Common Access Guidelines by all record-holders to govern the release of information to Indigenous people.

This term of reference gave a direct mandate to the Victorian Koorie Records Taskforce to develop guidelines that would enhance Indigenous people’s access to records. The Taskforce was guided by Recommendation 25 of the *Bringing Them Home* report, which prescribed minimum access standards such as rights to access by every individual to personal records and, importantly, records which are necessary to establish the identity of family members; free access; and timely release.

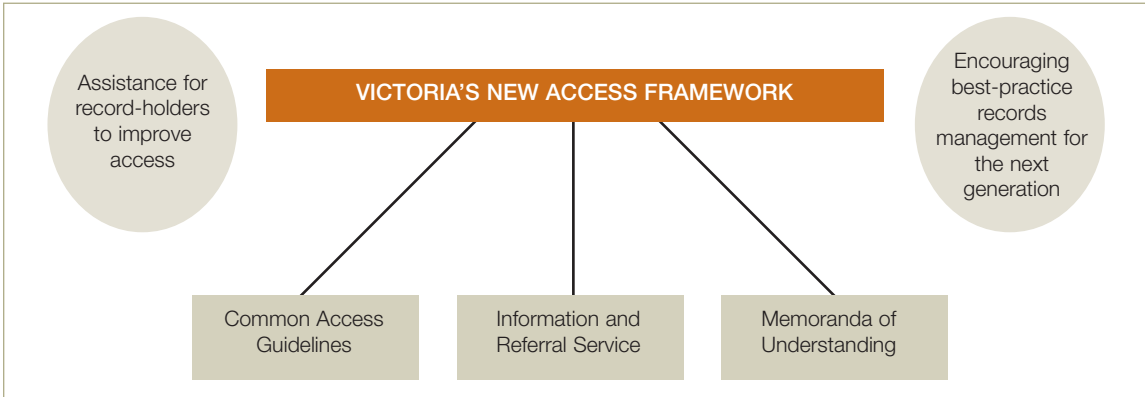
However, it is the finding of the Victorian Koorie Records Taskforce that these minimum standards are insufficient. The Taskforce recommends that the Victorian Government take the further step towards an integrated framework of records access in this State, namely a **new access framework**, the elements of which are detailed below.

The new access framework for Indigenous people to records located in Victoria involves:

- the establishment of a new Information and Referral Service to help people wishing to locate their records
- the signing of a series of memoranda of understanding governing processes for release of information
- the introduction of Common Access Guidelines to align the policies and practices of record-holding government agencies and community services organisations.

The creation of this new access framework in Victoria is the central recommendation of this report. Other initiatives recommended here will help to ensure that the framework operates efficiently, and that organisations receive appropriate support to improve access to records for members of the Stolen Generations.

Figure 1: Model for the New Access Framework for Stolen Generations Records in Victoria



3.1.1 Information and Referral Service

The establishment of a new Information and Referral Service is a key component of the new access framework for Indigenous records in Victoria. In consultations for this project, a recurring theme was the need for a service that would be a first port of call for members of the Stolen Generations wishing to find out about their past. Given the complexity of the current landscape, with a myriad of service providers and record-holding organisations, record-searchers would benefit greatly from an entry point that offers guidance, advice and referrals.

The need for such a service was acknowledged in Recommendation 27 of *Bringing Them Home*, which called for the Commonwealth and each state and territory to establish ‘first stop shops’ for people seeking information about, and referral to, records held by the government and by churches. To date, this recommendation has been taken up only by Western Australia and Queensland.

The models provided by the Family Information Records Bureau in Western Australia and Community and Personal Histories in Queensland are inappropriate for the Victorian context, however. These interstate services provide not only advice and information about records, but also administer access to government records. Given the current landscape in Victoria (described in Chapter 2) – with its range of service providers and dispersal of records across many organisations – the establishment of a new organisation to provide access to records would further complicate the picture and only duplicate existing services.

The consultations revealed that what was needed in Victoria was a new access framework that would enable the current service providers and record-holding organisations to function more efficiently by providing uniform and inter-connected services to Indigenous record-searchers.

This report recommends the establishment of a dedicated Information and Referral Service for the Stolen Generations to be delivered by Public Record Office Victoria (PROV). This service will not provide access to records. It will provide advice and information to people to give them the skills and know-how to search for records themselves, or it will refer enquiries to the appropriate service provider (such as Link Up) which will then guide and support service users as they seek to locate their records.

Using the model of FIRB from WA, the Information and Referral Service will not have a ‘shop front’ but will assist people by phone, mail and e-mail and have an informative website, with links to Victorian service providers and record-holding organisations.

Through its role in the Victorian Koorie Records Taskforce and its lead role in responding to *Bringing Them Home*, PROV has expertise in records management and knowledge of the landscape. PROV also has an established role promoting compliance with records management legislation and standards which could help it implement a new access framework for government and non-government record-holding agencies.

The provision of support, counselling and case management and the facilitating of access to records will remain the domain of existing service providers and record-holding organisations.

The establishment of the Information and Referral Service is a critical element of the new access framework put forward in Recommendation 1 of this report. It will lead the implementation of the Common Access Guidelines (see 3.1.2 below) and be the party to a network of MOUs with record-holders in the government and non-government sectors (see 3.1.3 below).

The Common Access Guidelines and MOUs will significantly improve and simplify the process of accessing records in Victoria. The

Information and Referral Service will operate on top of this improved system helping people to take the first step towards accessing their records. The service will also play a role in maintaining good relationships between record-holders and service providers and ensure that all stakeholders continue to strive for easier and more efficient access to records of the Stolen Generations.

3.1.2 Common Access Guidelines

Common Access Guidelines are the minimum access standards set out in Recommendation 25 of the *Bringing Them Home* report:

That all Common Access Guidelines incorporate the following standards.

1. The right of every person, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same.
2. No application fee, copying fee or other charge of any kind to be imposed.
3. A maximum application processing period to be agreed by the Records Taskforce and any failure to comply to be amenable to review and appeal.
4. A person denied the right of access or having any other grievance concerning his or her information to be entitled to seek a review and, if still dissatisfied, to appeal the decision or other matter free of charge.
5. The right of every person to receive advice, both orally and in writing, at the time of application about Indigenous support and assistance services available in his or her State or Territory of residence.
6. The form of advice provided to applicants to be drafted in consultation with local Indigenous family tracing and reunion services and to contain information about the nature and form of the information to be disclosed and the possibility of distress.
7. The right of every person to receive all personal identifying information about himself or herself including information which is necessary to establish the identity of family members (for example, parent's identifying details such as name, community of origin, date of birth).
8. The right of every person who is the subject of a record, subject to the exception above, to determine to whom and to what extent that information is divulged to a third person.²⁰

The Taskforce has assisted a number of record-holding organisations in understanding the standards required; however, apart from informal arrangements with pro-active record-holding agencies, it has been unable to go further than recommending adherence to these standards.

To resolve this issue, the Taskforce believes the new access framework will provide the mechanisms to embed Common Access Guidelines throughout government and with private record-holders via MOUs. Public Record Office Victoria is well-placed to lead on these issues if adequate resources are provided. A draft of the Common Access Guidelines is located at Appendix C.

Successful implementation of the new access framework will necessarily involve a wide range of record-holding organisations agreeing to adopt the Common Access Guidelines when providing members of the Stolen Generations with access to their personal records.

The MOUs to be entered into by record-holders and service providers (see 3.1.3 below) must include an undertaking by record-holding organisations to apply the Common Access Guidelines. The Taskforce believes that the Common Access Guidelines will not be possible to implement unless they are accompanied by MOUs. The MOUs will provide a way for organisations to streamline their processes so that the Common Access Guidelines can be applied. Examples of the procedural or process matters which need to be streamlined are:

- proof of identity requirements
- fee-free searching
- release of third-party information
- appeals process
- information about support services.

These issues are expanded upon in the next section, which details how MOUs will help to resolve access barriers, implement the Common Access Guidelines across Victoria and promote adherence to the access standards set out in *Bringing Them Home*.

The introduction of the Common Access Guidelines will need to be accompanied by a culturally appropriate and user-friendly information resource, such as a brochure. This brochure will set out in clear terms important information for members of the Stolen Generations wishing to access records under the new access framework such as:

- the right of a person to view personal information
- the right of a person to view information necessary to establish the identity of family members
- the responsibility of a person not to disclose any sensitive third-party information contained in records released to them
- the grievance process available to people who are denied access to records
- the support services available to people accessing records.

3.1.3 Memoranda of Understanding

The delivery of a new access framework in Victoria is dependent on the co-operation and goodwill of record-holding organisations, as well as a streamlining of the processes through which these organisations provide access to their records.

The Victorian Koorie Records Taskforce recommends the use of memoranda of understanding with record-holders as a mechanism to create collaborative approaches amongst record-holding agencies, and the flow-on benefits to service providers and searchers. Although a voluntary step, MOUs would assist in formalising existing relationships

and arrangements and also afford opportunities for increased education and awareness of the needs of the Stolen Generations.

The Taskforce has taken as a benchmark the good-practice example set by the organisation Nunkuwarrin Yunti, which houses Stolen Generations services in South Australia. In 2002 this organisation signed a number of MOUs with key record-holding agencies such as the Registry of Births, Deaths and Marriages, the Lutheran Archives, SA State Records and the SA State Library. Signatories have confirmed that these agreements have greatly improved and simplified the processes which Stolen Generations clients now go through to identify family.

The need for this MOU process to be undertaken by a central point is evident in Victoria, given the high number of service providers and record-holders. It is proposed that the new Information and Referral Service would, like Nunkuwarrin Yunti, would be the focal point of a network of MOUs with key stakeholders.

The content of the MOUs in Victoria would be based around the Common Access Guidelines and would include issues such as the following:

Proof of identity requirements: A common single application form would be created so that searchers are not required to provide ID to a number of record-holders. The Victorian Koorie Records Taskforce considers that, for Indigenous searchers, most particularly the members of the Stolen Generations, the evidentiary burden on people seeking access to their personal information is far too onerous and often the subject of the search itself.

In Western Australia and Queensland, the relevant departments processing requests for information operate on trust, with no requirement to produce proof of identity. The Taskforce would recommend that searchers be subjected to one level of scrutiny only: once one organisation has accepted the bona fides of an individual seeking to obtain their own records, that individual's right to access personal information should be accepted by other record-holders. The need to develop a common identification form, together with the use of the MOU process to embed this agreement with other record-holders, is recommended.

Fee-free searching: A fundamental recommendation in the *Bringing Them Home* report (Recommendation 25) was for free searches to be provided to members of the Stolen Generations. The inclusion of this requirement in an MOU would ensure this practice is uniformly applied.

Release of third-party information: For members of the Stolen Generations seeking access to their records, the release of third-party information is usually the entire point of the exercise. *Bringing Them Home* was unequivocal on the need to transcend privacy issues in these circumstances. As one community member stated in consultations for this project:

"I've found that Community Services Victoria have provided me with only parts of my records. A lot of information is missing or blanked out. The files should not be blanked out when they are family names because this is who I'm looking for."²¹

In the previous chapter, the Taskforce reported its key findings in relation to government release processes such as FOI and the impact of privacy guidelines on requests to non-government record-holders to release information on third parties. The unnecessary application of privacy requirements or inflexible and narrow interpretation of FOI legislation can reduce searches to a frustrating or futile process.²²

The Taskforce recommends that the proposed MOUs contain a provision that commits record-holding agencies to providing Indigenous searchers with access to third-party information for the purposes of family reconnection.

Appeals process: The Victorian Koorie Records Taskforce recommends the introduction of an appeals process for both government and non-government records in relation to denial of access to information. An accompanying awareness-raising campaign is also recommended. The appeals process will be set out clearly in the Common Access Guidelines.

The preferred process is for the individual with the complaint to first approach the management of the record-holding institution to seek a review of a decision or to express dissatisfaction. If the issue remains unresolved, referral to a committee with specialist Stolen Generations knowledge should follow, preferably for a final decision. An alternative mechanism would be a complaint to the Ombudsman. More formal judicial or quasi-judicial processes such as the Victorian Civil and Administrative Tribunal (VCAT) are considered too onerous and costly for Indigenous people to undertake.

Information about support services: Indigenous searchers being made aware of support services should they be required is strongly recommended and is included in the Common Access Guidelines. The information contained in reports can be distressing; it may be couched in racist language, contain incidents the person would not wish to know,

and have a disturbing impact on an individual's well-being.

Stolen Generations service providers in Victoria have witnessed many clients suffer a critical event following access to painful information, resulting in alcohol and substance abuse, family/marriage breakdown and offending behaviour. Access to counselling or a support worker can make a crucial difference. By signing the MOUs and committing to the Common Access Guidelines, record-holding agencies will undertake to make their Indigenous clients aware of available support services.

The Taskforce further recommends that Victorian record-holders and service providers enter into MOUs with interstate jurisdictions to allow for easier access to records held elsewhere. This issue is addressed in detail in Term of Reference 3.

3.1.4 Public Record Office Victoria

Recommendation 2: That Public Record Office Victoria undertake an indexing project of all relevant Victorian records in its custody to produce an Indigenous name index.

Bringing Them Home called for government record agencies to be funded as a matter of urgency to preserve and index records relating to 'all children, Indigenous or otherwise, removed from their families for any reason', as well as records of significance to Indigenous individuals, families and communities (see Recommendation 22a of *Bringing Them Home*).

The major archival institutions in Victoria have taken steps to identify and index records of significance to the Indigenous community. NAA received Commonwealth Government funding for its Bringing Them Home Name Index project. This index provides access to records relating to the Northern Territory, Canberra and Victoria and provides an excellent model for a

smaller-scale indexing project on Victorian public records relating to Indigenous people.

To properly assist members of the Stolen Generations and the wider Koorie community, PROV requires funding to undertake an indexing project of the Victorian collection, which will complement the Federal Bringing Them Home Name Index. A high priority would be the name indexing of the correspondence of the Aboriginal Welfare Board, for which there is currently no index at all. Without funding for PROV to employ indexers, this project would be reliant on the work of volunteers, meaning that it would progress much more slowly than a funded project.

3.1.5 DHS Archives Unit

Recommendation 3: That the Department of Human Services undertake an archival Arrangement and Description project on critical records relating to child removal to facilitate better access, including the creation of an electronic cross-referenced name index.

The [Senate Community Affairs] Committee considers that an adequate response to those pursuing their history must include the following. First, all records relating to care leavers need to be indexed and cross-referenced. This would enable relevant records to be quickly accessed and all material held to be made available to the care leaver, including any photographs or other memorabilia. This is an expensive and time-consuming task, but the Committee considers that there is a moral obligation to ensure that all surviving information is made available. It is part of the continuing duty of care.²³

The Department of Human Services (DHS) is the most important government agency holding records pertaining to the removal of Indigenous children from their families. DHS records relating to the provision of institutional care for children date back to the mid-nineteenth century and are either located at PROV or held by the agency.²⁴

DHS has worked closely with the Victorian Koorie Records Taskforce since 2001, and representatives of its FOI Unit and Adoption and Family Records Service have been actively involved in consultations for this project. The participation of the FOI Unit and AFRS in these activities demonstrates DHS's commitment to improving access to its records for Indigenous people, as part of its continuing duty of care to people who were removed from their families as children.

A number of significant barriers remain however which can make it difficult for Indigenous people to gain access to DHS records relating to their time in out-of-home care. This section puts forward a number of recommendations that will address these obstacles.

Many public records relating to the removal of children from their families are still in the custody of DHS. Consultations have indicated that the DHS Archives Unit requires assistance to improve its management of critical records relating to child removal. Assistance for an Arrangement and Description (A&D) and digitisation project would greatly improve access to these records, for both Indigenous and non-Indigenous record-searchers.

The creation of a comprehensive electronic, cross-referenced name index would be a vital component of any A&D project. As quality control is extremely important for the impact and long-term success of this indexing project, funding would need to allow for a range of tasks associated with this indexing, such as database construction, data entry, indexing, checking, and ongoing database queries and maintenance.

At the very least, the new electronic name index needs to refer to records from the central filing system, and contain cross-references to

indicate where DHS holds multiple records relating to a client, in different collections and different record-keeping systems. The proposed database needs to capture vital information including:

- child's name
- child's date of birth
- parents' names
- any other evident family relationships.

The A&D project would also involve the identification of series currently held by DHS that could be transferred into the custody of PROV. This would result in cost savings for the agency and ensure the best-practice preservation and management of critical client records.

DHS also requires funding to digitise existing indexes to important records, such as the Ward of State Indexes, covering the date range 1864–1965. Microfilm copies of this series exist but some of the original records were in a very poor condition and one sequence of microfilmed indexes has deteriorated through use. The digitisation of client files is also recommended. Currently, around 1,000 client files are scanned each year, as digitisation takes place when records are requested by the FOI Unit. Funding for the back-scanning of records not already captured by this process would speed up this important initiative.

Digitisation would have significant benefits, not only in terms of access (allowing agencies such as the FOI Unit and AFRS to provide instant electronic access to records), but also in terms of long-term preservation, as handling of these records would be significantly reduced.

3.1.6 DHS FOI Unit and Adoption and Family Records Service

Recommendation 4: That Victorian Government agencies using FOI and Adoption Act processes to release information train their staff to identify what information is likely to be important to members of the Stolen Generations and the Koorie community, to appreciate the sensitivity of this information, and to understand the need for such information to be provided in a sensitive and supportive environment.

In particular, that DHS, as the agency with the most relevant information:

- pro-actively promote to Indigenous clients wishing to access adoption records the option of having a support person of their choice attend the mandatory Adoption and Family Records Service (AFRS) interview
- develop culturally specific information resources for the FOI Unit and AFRS's Indigenous clients
- continue in its efforts to develop policies and procedures to support clients accessing potentially distressing records through FOI processes
- explore the option of gazetting appropriate service providers to the Stolen Generations as 'approved counsellors' pursuant to the Adoption Act 1984
- continue to foster and develop relationships and communication processes with service providers to the Stolen Generations to deliver appropriate and quality services to Indigenous clients.

As discussed in Chapter 2, Indigenous clients of DHS's FOI Unit and Adoption and Family Records Service can face significant barriers when attempting to access their personal records. The major barriers are:

- the withholding of third-party information (due to strict interpretation of the FOI Act's privacy exemption)

- the FOI Act making no provision for applicants to receive 'supported release' of potentially distressing documents
- the Victorian Adoption Act's requirement that an interview take place with an approved counsellor (sometimes leading to an Indigenous person's support worker being left out of the process).

As described in detail in Chapter 2, DHS is very aware of the potential effects of releasing certain types of documents, and is exploring ways that FOI Assessing Officers can be more involved in supporting clients through the release process. It also now offers 'supported release' of records through the Adoption and Family Records Service to many former Wards.

It is recommended that DHS continue along this path of improving its service provision to Indigenous clients removed from their families as children. DHS needs to be supported in its efforts to develop new policies and procedures to help clients throughout the release of potentially distressing records.

3.1.7 Department of Justice

Recommendation 5: That the Department of Justice form a working group with Victorian service providers and representatives from agencies including the Department of Human Services and the Department for Victorian Communities to explore how to expand on existing work in the prison system to improve access to records for Indigenous people in custody.

There is a clear correlation between the breakdown of Aboriginal families, involvement of children in the protection and care system, and subsequent contact with the justice system.²⁵

The report of the Royal Commission into Aboriginal Deaths in Custody in 1991 first drew attention to the fact that Indigenous people

removed from their families as children were over-represented in the Australian justice system. One of its recommendations was to improve access to records as a way of re-establishing links between individuals and their families and communities.

Service providers in Victoria such as Link Up and the KHT Family History Service are acutely aware of how difficult it is for many Indigenous people in custody to access information about themselves, their family and community. The work of these service providers in Victorian prisons has demonstrated the potential benefits of improving access to personal records for people in custody.

At a workshop for project stakeholders in July 2004, there was great interest in taking the work of service providers in Victorian prisons further, to improve access to information about personal and family histories by Indigenous people in custody.

The Department of Justice (DOJ) is an important stakeholder in this issue. There is a need for other agencies and service providers to develop their links with DOJ and to work together to formulate policies and procedures that address the significant access barriers facing Indigenous people in custody.

In 2005 the Department of Justice released the *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* in which a number of recommendations relating to underlying causes of offences, including family break-up were addressed. Support and advocacy for the Stolen Generations has been an important part of the Victorian Aboriginal Justice Agreement.

3.1.8 Additional benefits of the New Access Framework

Whilst outside the Terms of Reference, the Taskforce is able to point to wider benefits which will, by necessity, arise from the new access framework.

It should be noted that this framework will contain flow-on improvements to the access to all records in Victoria relating to children in out-of-home care, whether Indigenous or non-Indigenous, as the Aboriginality of a child was rarely recorded in records of child welfare organisations and it is impractical to treat 'Aboriginal records' any differently from those relating to non-Aboriginal clients.

Even if it were possible to identify with certainty which names were those of Aboriginal people, it would still be better practice to create a name index that establishes access to all records in a series or collection. Given the financial and time commitments inherent in any indexing project, it is worth creating a name index that offers the organisation maximum value and usefulness. A comprehensive name index that provides access to all relevant records is better records management practice, and delivers a product that will have benefits for both Indigenous and non-Indigenous people searching for their families, as well as for the organisation holding the records.

As highlighted in *Forgotten Australians* (2004), many of the access barriers facing members of the Stolen Generations, such as the suppression of information relating to third parties, also cause problems for non-Indigenous people seeking information in order to re-connect with family. The new access framework put forward in this report will make it easier for all people formerly in institutional care to access vital identifying information about third parties (within established privacy guidelines).

3.2 VKRT Term of Reference 2: Assistance to Non-Government Agencies

Recommendation 6: That the Victorian Government:

- take active steps to encourage non-government record-holders to open access to their records for Indigenous searchers wishing to reconnect with family or culture
- fund the development and delivery of information resources and training programs for non-government record-holding agencies
- provide resources in the form of grants to non-government record-holding agencies with information relevant to the members of the Stolen Generations to undertake preservation, indexing and archiving projects
- ensure these grants are conditional upon the record-holding agency adopting the Common Access Guidelines and entering into a Memorandum of Understanding with the Information and Referral Service (see Recommendation 1).

“We get told that some records are at local churches and then when we approach the local churches they say they are too busy or under-resourced to help.”²⁶

As many members of the Stolen Generations were removed from their families to non-government institutions such as churches and orphanages, important information relating to family and the history of an individual are likely to be held in their archives.

Bringing Them Home highlighted how access to non-government records has historically been a vexed issue across Australia. Consultations undertaken by the Victorian Koorie Records Taskforce have confirmed that work needs to be undertaken to open up access to records held by non-government organisations.

Issues impacting on the release of this information, whilst including fear of litigation, primarily centre on the lack of resources in the community services sector to properly locate, preserve, identify, manage and index records, and to create the appropriate processes for

their release. The Taskforce is able to confirm that there is value in the government investing in the non-government sector to help remove the obstacles that face searchers attempting to identify family and community.

3.2.1 Grants for non-government record-holders

Fortunately in Victoria a number of organisations, notably MacKillop Family Services, the Good Shepherd Sisters, and the former Ballarat Child Orphanage, have responded pro-actively to the challenges of properly managing and facilitating access to their records. However, many other community services organisations are unable to address their records management issues, as their priority is day-to-day service provision to their clients.

MacKillop Family Services, also a member of the Taskforce, has committed almost \$200,000 to putting its records onto a database, which now has information on around 115,000 past clients.²⁷ The Good Shepherd Sisters has also in recent years completed a computerised name index to its client records. Other organisations are less advanced with such projects; for example, Ballarat Child and Family Services is dependent on part-time staff and volunteers to build its database, a name index to records of the former Ballarat Orphanage. Still more record-holding community services organisations are well aware of the benefits of indexing projects, but are unable to commit funds to such activities.

The Taskforce recommends the provision of a small grants program for record-holding organisations in the non-government and community sector. The program could assist grantees with:

- indexing projects
- storage areas and facilities for their records
- preservation of records

- identification of records
- archiving of records
- indexing of records to identify names of people mentioned in them.

Whilst the Taskforce understands that the responsibility to undertake good practices in records management lies with the non-government record-holders, the availability of grants, coupled with the requirement of entry into an MOU which incorporates the new Common Access Guidelines (see 3.1.3 above), will greatly assist those who have been unable to identify family due to the inaccessibility of these critical documents held by non-government agencies.

It is recommended that PROV administer this grants program. PROV, which is part of the Department for Victorian Communities, not only has expertise in records management, but has experience in administering grants to small, community-based organisations through its Local History Grants Program. The proposed small grants program for non-government record-holders would align with the DVC Grants Framework and would make significant contributions to the government's objectives of strengthening communities and improving community connectedness.

3.2.2 Training for non-government record-holders

The development of information resources and training programs should accompany the introduction of the Common Access Guidelines in Victoria. Record-holders from the non-government sector would particularly benefit from such resources and training being made available.

The Australian Society of Archivists (ASA) is an ideal body to develop information resources and training, given the expertise and networks of its members. However, ASA would have to receive funding in order to implement this recommendation, as all of its office-bearers are volunteers. The training could be delivered in a partnership between PROV, the Victorian branch of ASA and the Centre for Excellence in Child and Family Welfare (formerly the Children's Welfare Association of Victoria, the peak body representing Victoria's out-of-home care providers). A communications strategy needs to be developed so that the resources are widely promoted in the sector.



Participants at Indigenous Records Information Day 2004, Wagga Wagga.
Photograph: Emma Toon

3.3 VKRT Term of Reference 3: Interstate Enquiries and Transfers

Recommendation 7: That the Victorian Government demonstrate national leadership through initiating the process of improving access to records nationally and that the Victorian Minister for Aboriginal Affairs, in his capacity as a member, place this issue on the agenda of the Ministerial Council for Aboriginal and Torres Strait Islander Affairs.

Recommendation 24 of *Bringing Them Home* related to the problems often experienced by record-searchers wishing to access records held interstate. It was not uncommon for a child born in, for example, the Northern Territory, to be removed to another state, such as Victoria. This situation creates particular access barriers for Indigenous people trying to trace their history. It can be even more difficult to know where to start and who to contact when searching for records held interstate. Record-searchers (and service providers working on their behalf) often do not benefit from the formal or informal arrangements in place in each state that should enable Indigenous people to access records held in other jurisdictions and thus can receive a lesser standard of service in their dealings with interstate record-holding organisations. Accessing records held interstate can also attract extra costs, such as photocopying and postage, or even travel costs.

Unfortunately there are significant challenges to be faced in devising a national records protocol. Not surprisingly there are similar records issues in all other jurisdictions and uniformity is difficult to achieve. To further complicate matters, there is no one decision-making body or national forum, with the exception of the Council of Australian Governments (COAG) comprising Ministers with records portfolio responsibilities.

Work which can be built upon includes that undertaken by the Council of Australasian Archives and Records Authorities (CAARA). CAARA has taken steps for the archives and records profession to tackle Recommendation 24 at the national level, via its Reference and

Public Access Working Group. CAARA has drawn attention to the difficulties involved in developing a set of guidelines for referring enquiries about records relating to Indigenous Australians between interstate record-holding agencies, namely 'differences in jurisdictional responsibility, potential difficulties in making one archival agency the "agent" for enquiries and potential privacy concerns'.

CAARA adopted the Statement of Principle 'Access to records of Indigenous Australians affected by past separation policies' in April 2004, the purpose of which is 'to develop a framework for referring enquiries between COFSTA institutions about records of Indigenous Australians who have been affected by past government separation policies'. With this Statement of Principle, CAARA institutions undertake to give priority to enquiries from interstate organisations about records of the Stolen Generations within the legislative framework and operating environment of the institution that has custody of the records.

CAARA's Statement of Principle is an important step in the eventual national endorsement of Recommendation 24 of *Bringing Them Home*. However, it falls short of specifying a clear process or framework to be followed by record-holding agencies. Furthermore, CAARA represents only some of the agencies holding records relating to Indigenous people removed from their families (its members comprise representatives of state and territory archival institutions in Australia and New Zealand).

The successful endorsement of Recommendation 24 of *Bringing Them Home* requires leadership and commitment at the national level. The Taskforce would urge the Victorian Government to lead on this issue nationally, particularly through the Minister for Aboriginal Affairs, who is also a member of the Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA) for 2004–2006. This would be appropriate, as MCATSIA has the monitoring and evaluation role nationally for responses to *Bringing Them Home*.

3.4 Term of Reference 4: Advise Government on Policy

3.4.1 Policy statement

The Victorian Koorie Records Taskforce calls upon the Victorian Government to accompany the implementation of the recommendations in this report with the release of a policy statement.

Recommendation 8: That the Victorian Government release a policy statement which:

- commits the Victorian Government to the standards for records access set out in Recommendation 25 of *Bringing Them Home*, and implementation of a new access framework to help members of the Stolen Generations locate and access their records simply, efficiently and at no cost
- commits the Victorian Government to a national leadership role in the improvement of access to records held in different jurisdictions
- commits to the improvement of supported release of government records and integrated government services to assist Indigenous people, including those in custody, in re-establishing connections to family and culture.

3.4.2 Capacity building

The recommendations in this report are specifically aimed at improving the strength of Indigenous Victorian communities. In order to contribute to the capacity of Victoria's Indigenous communities to manage important historical and cultural material, the Taskforce further recommends that record-keeping be promoted as a vital skill to Indigenous community organisations.

Recommendation 9: That the Minister for Aboriginal Affairs include the development of good recordkeeping and archiving skills in Indigenous community organisations as an integral component of the Indigenous Community Capacity Building strategy.

3.4.3 Indigenous repositories

Recommendation 10: That the Victorian Government fund a feasibility study to scope the potential to implement Recommendations 29a and 29b of the *Bringing Them Home* report, which relate to Indigenous repositories. This project should commence by assessing the extent and significance of records within Indigenous community control, and will identify the resources required to develop the capacity of the Indigenous community to manage, preserve, store, index and maintain its records.

The Taskforce recommends the undertaking of a feasibility study into the viability of Indigenous records repositories or 'keeping places' within Victoria. An Indigenous repository would house records of relevance to the Stolen Generations and the wider Indigenous community, in either original or digitised format. The *Bringing Them Home* report Recommendations 29a and 29b endorsed the creation of such an entity, which would include not only records but also information on Indigenous language, culture and history. Potential sources of information, such as documentation on cultural heritage and land might be considered useful material to include in a repository, which itself has the potential to serve as a wider resource for the Aboriginal community.

Keeping places could house records of Indigenous organisations, as well as other material originally created by government agencies or community services organisations if agreement could be reached about this material's repatriation. A recent project in Victoria has taken an innovative approach to

the sharing and repatriation of historical and cultural material. The Koorie Heritage Archive project, piloted by the Koorie Heritage Trust, has collected digitised copies of records, photographs, films, objects and sound recordings into a stand-alone digital archive. (The Koorie Heritage Archive is stand-alone, rather than web-based, because of the sensitive nature of many items which are inappropriate for open public access.) The contents of this archive have come from community donations and a range of public and private collections.

In terms of cultural material in the Indigenous community, there is an urgent need for work to be done now so that significant and valuable collections can be identified, and steps taken to ensure that Indigenous organisations have the capacity, funds and facilities to manage their records. Such work would also help the Victorian Government to meet Recommendations 29a and 29b of *Bringing Them Home*.

3.5 VKRT Term of Reference 5: Advise Government on Legislative Change

The Taskforce does not consider any legislative change to be necessary in order to improve access to records for Indigenous people in Victoria. The policy and process changes put forward within the 10 Recommendations in this report will greatly contribute to an environment

in Victoria where members of the Stolen Generations and the wider Koorie community can locate and access government and non-government records quickly and efficiently, and with appropriate support.



Making a better future

The recommendations put forward in this report will significantly address the access barriers facing Victorian members of the Stolen Generations searching for their personal records, and thus contribute to the journey of healing of individuals, families and communities.

This report has identified a range of barriers facing members of the Stolen Generations and other care-leavers wishing to access their records. To ensure that future generations experiencing out-of-home care do not face the same obstacles, there is a need for organisations providing care to children today to address their record-keeping practices.

4.1 Improving current practice in record-keeping

During consultations for this project, many stakeholders raised questions about the issue of how to improve current record-keeping practices in the out-of-home care sector. Their comments were based on experiences where poor record-keeping practices have resulted in destruction, loss or scant information, which can be a devastating blow to the searcher: 'it can be difficult to accept that several years of a life can be recorded by no more than some one-line entries in a register'.²⁸

In the past, the people responsible for the removal of Indigenous children from their families and for their out-of-home care did not anticipate how important records would be to these children as adults:

... public servants, police officers, school staff, hospital and mission workers responsible for implementing the Government policy of separation did not record information in a way that makes it easy to use today. They were not interested in recording information to show what happened to individual children or to their families. They had no reason to think that information that they could have recorded, but did not, would be of vital use decades later. They recorded information to help them do their jobs or as required of them by law or by their superiors.²⁹

Recognition of the importance of high-quality record-keeping and records management practices in order to be able to meet the future needs of current clients should be uppermost in the minds of those organisations which provide out-of-home care. The Taskforce wishes to draw attention to and urge ongoing support from government for the following good practice examples:

Looking after children

In 2003, a new system for recording and managing information about children in care was introduced in Victoria. The Looking After Children (LAC) system's goals are for the child in care to develop a sense of self as a separate and valued person, and to construct a sense of identity and connectedness: 'They will know their family background, will be connected as far as possible in positive ways to their immediate or extended family, and have an understanding of and connection to their own ethnic and cultural background'.³⁰

Berry Street Victoria has attested to the benefits of LAC for vulnerable children:

LAC ... presupposes that a record of young people's health, welfare and interests while in care will have long-term effects in terms of building social capacity in children to be parents and constructive community members as adults. Nurturing the wellbeing of young people in care extends beyond preventing youth from entering the criminal justice system or escaping drug and alcohol abuse.³¹

Lifebooks

MacKillop Family Services takes an innovative approach to record-keeping for children in care. Its current approach is for its workers to create specially designed 'lifebooks' for children and scrapbooks for young people.

Lifebooks package a child's special things and memorabilia and keep them together, and they can move with a child or young person as they move. Important and special things to incorporate in lifebooks include family trees; photos and letters from parents, siblings, previous and current caregivers; photos of past houses lived in and schools or kindergartens that have been attended; a school history and growing-up memorabilia and information; photos and stories of first days at school; details of what children/young people were like as babies; birth information, certificates, school reports, photos of family members and important friends and carers.³²

Children and young people are involved with workers in the development of their own lifebooks.

As a practitioner, seeing a child's enthusiasm in creating their own book about themselves and their family, experiencing a child's joy at seeing themselves as babies or toddlers and making connections of how they fit and where they belong in their families is a truly amazing experience.

For a young person leaving care, receiving a life book was a significantly important event. Having been in care since she was a baby and with her parents both deceased, receiving her life book was really moving. The young person was able to communicate just how important that this was for her, saying that she felt so valued and that her story and her family's story were important and respected. She says that she will treasure and cherish this life book, her collection of photos, memories and stories of herself and her family which she will continue to add to.³³

Appendices

Appendix A: Recommendations from Chapter 16 of *Bringing Them Home*

Recommendation 21: That no records relating to Indigenous individuals, families or communities or to any children, Indigenous or otherwise, removed from their families for any reason, whether held by government or non-government agencies, be destroyed.

Recommendation 22a: That all government record agencies be funded as a matter of urgency by the relevant government to preserve and index records relating to Indigenous individuals, families and/or communities and records relating to all children, Indigenous or otherwise, removed from their families for any reason.

Recommendations 22b: That indexes and other finding aids be developed and managed in a way that protects the privacy of individuals and, in particular, prevents the compilation of dossiers.

Recommendation 23: That the Commonwealth and each State and Territory government establish and fund a Records Taskforce constituted by representatives from government and church and other non-government record agencies and Indigenous user services to:

develop Common Access Guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles

advise the government whether any church or other non-government record-holding agency should be assisted to preserve and index its records and administer access

advise government on memoranda of understanding for dealing with interstate enquiries and for the interstate transfer of files and other information

advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information

advise government on the need to introduce or amend legislation to put these policies and practices into place.

Recommendation 24: That each government, as advised by its Records Taskforce, enter into memoranda of understanding with other governments for dealing with interstate enquiries and for the interstate transfer of records and other information.

Recommendation 25: That all Common Access Guidelines incorporate the following standards:

- the right of every person, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same
- no application fee, copying fee or other charge of any kind to be imposed
- a maximum application processing period to be agreed to by the Records Taskforce and any failure to comply to be amenable to review and appeal
- a person denied the right of access or having any other grievance concerning his or her information to be entitled to seek a review and, if still dissatisfied, to appeal the decision or other matter free of charge
- the right of every person to receive advice, both orally and in writing, at the time of application about Indigenous support and assistance services available in his or her State or Territory of residence
- the form of advice provided to applicants to be drafted in consultation with local Indigenous family tracing and reunion services and to contain information about the nature and form of the information to be disclosed and the possibility of distress
- the right of every person to receive all

personal identifying information about himself or herself, including information which is necessary to establish the identity of family members (for example, parent's identifying details such as name, community of origin, date of birth)

- The right of every person who is the subject of a record, subject to the exception above, to determine to whom and to what extent that information is divulged to a third person.

Recommendation 27: That the Commonwealth and each State and Territory government, in consultation with relevant Indigenous services and its Records Taskforce, establish an Indigenous Family Information Service to operate as a 'first stop shop' for people seeking information about and referral to records held by the government and by churches. That these Services be staffed by Indigenous people. That to support these Services each government and church record agency nominate a designated contact officer.

Recommendation 28: That the Commonwealth and each State and Territory government institute traineeships and scholarships for the training of Indigenous archivists, genealogists, historical researchers and counsellors.

Recommendation 29a: That, on the request of an Indigenous community, the relevant Records Taskforce sponsor negotiations between government, church and/or other non-government agencies and the relevant Indigenous language, culture and history centre for the transfer of historical and cultural information relating to that community and its members.

Recommendation 29b: That the Council of Australian Governments ensure that Indigenous language, culture and history centres have the capacity to serve as repositories of personal information that the individuals concerned have chosen to place in their care and which is protected in accordance with established privacy principles.

Appendix B: Organisations involved in project consultations

Aboriginal Affairs Victoria
Adoption and Family Records Service, DHS
Archives Office of Tasmania
Archives Unit, DHS
Ballarat Aboriginal Co-operative
Ballarat Child and Family Services
Berry Street Victoria
Births Deaths and Marriages
Births Deaths and Marriages (South Australia)
Centre for Excellence in Child and Family Welfare Inc.
Community and Personal Histories, Queensland
Connections
Family Information Records Bureau (Western Australia)
Freedom of Information Unit, DHS
Good Shepherd Youth and Family Services
Koorie Heritage Trust
Link Up Victoria
Lutheran Archives (South Australia)
MacKillop Family Services
Museum Victoria
National Archives of Australia
Northern Territory Archives Service
Nunkuwarrin Yunti (South Australia)
Public Record Office Victoria
Royal Women's Hospital
Rumbalara Aboriginal Co-operative
Salvation Army
State Library of Victoria
State Records New South Wales
State Records of South Australia
State Records Office of Western Australia
Wathaurong Aboriginal Co-operative

Appendix C: Draft Common Access Guidelines

Recommendation 1 of this report calls for all government agencies and community services organisations in Victoria holding records relating to the removal of Indigenous children from their families to adopt Common Access Guidelines. These draft guidelines were developed by the Victorian Koorie Records Taskforce following the consultation phase of the *wilam naling* project. They are informed by the comments of stakeholders, particularly service providers, about the access barriers currently facing Indigenous people searching for personal records. The guidelines also meet the standards as set out in Recommendation 25 of *Bringing Them Home*.

Introduction

Recommendation 23 of the *Bringing Them Home* report called for each state and territory in Australia to 'develop Common Access Guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles'.

These Common Access Guidelines have been developed to meet the standards set out in Recommendation 25 of *Bringing Them Home*. The Guidelines are also the result of consultation with record-holding organisations from both government and non-government sectors.

Personal records can play an important role in the lives of people who were removed from their families: sometimes they are the only key to a person's identity. The family and community separations that resulted from past policies and practices relating to Aboriginal children have made access to records a vital issue for many Indigenous people. Indigenous people removed from their families have the

right to access information that will assist them to establish their identities, locate family members and link up with their community.

The Common Access Guidelines balance a person's right to have their personal information protected with the particular need of Indigenous people removed from their families to access information. The Guidelines recognise that it is necessary for some members of the Stolen Generations to access information about third parties that would, under general circumstances, be protected by privacy legislation.

These Common Access Guidelines will make searching for records much easier for Indigenous people. They are about providing a statement of the right of individuals removed from their families to information relating to their past and about a common approach to access, whether these records are held by a government department, a community services organisation or a church body.

These Guidelines set out the access policy to be applied when Aboriginal people removed from their families seek information in personal records held by government agencies and community services organisations in the State of Victoria.

The Guidelines

The Guidelines provide a clear statement of the rights of the individual seeking access and the obligations of the record-holding organisation. They are also accompanied by resource material to help organisations administer the Guidelines and to help applicants access appropriate support and assistance.

1. Every person has the right, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same. Requests for access are to be made via the Request for Release of Personal Information form.

2. Every person has the right, upon proof of identity only, to view identifying information that is necessary to establish the identity of family members* (subject to the applicant undertaking not to disclose any personal or sensitive information by signing the Request for Release of Personal Information form).
*A culturally appropriate definition of 'family members' will be provided in the Guidelines following consultation with Aboriginal community organisations.
3. The proof of identity requirement is satisfied by:
presentation of the Common Identification Form endorsed by an approved service provider, or
photo ID such as a driver's licence, or other identification such as a birth certificate.
4. No application or copying fee or any other charge is to be imposed.
5. The applicant will receive all relevant records within a 45 day period.
6. If the applicant is denied access to records, he or she is entitled to seek a review by the management of the record-holding organisation. If the applicant is still dissatisfied, he or she can appeal the decision or take the grievance to the Victorian Koorie Records Taskforce or Stolen Generations Victoria Ltd for review.
7. Every applicant will be provided with information, orally and in writing, about Indigenous support and assistance services available in Victoria. This information is set out in the Brochure.
8. Every applicant will be advised of the possibility of distress and offence that may result from accessing their records. This information is set out in the Brochure.
9. Every applicant will be advised that they can have their service provider, counsellor or case manager involved in the process of locating and releasing records. This information is set out in the Brochure.

Appendix D: Department of Human Services and its predecessor agencies

Name of Agency	Date Range
Department of Human Services	1996 – present
Department of Health and Community Services	1992–1995
Health and Community Services	1992–1995
Community Services Victoria	1985–1992
Department of Community Welfare Services	1978–1985
Social Welfare Department	1970–1978
Social Welfare Branch (of Chief Secretary's Department)	1960–1970
Children's Welfare Branch (of Chief Secretary's Department)	1924–1960
Department of Neglected Children	1887–1924
Department of Reformatory Schools	1887–1954
Department of Industrial and Reformatory Schools	1864–1887

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Australian Catholic Social Welfare Commission & Australian Conference of Leaders of Religious Institutes, *A Piece of the Story: national directory of records of Catholic organisations caring for children separated from families*, Curtin, ACT, 1999.

Berry St Victoria, *Submission to the Senate inquiry into children in institutional care*, July 2003.

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Privacy Commissioner, *Families on File: laws, practices and policies for access to personal records by Aboriginal and Torres Strait Islander people*, 1996.

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Notes

- 1 Victorian Stolen Generations Taskforce, *Report to Victorian Government*, April 2003, p. 10.
- 2 Anna Haebich, *Broken circles: fragmenting Indigenous families 1800–2000*, Fremantle Arts Centre Press, 2000, p. 13.
- 3 Lowitja O'Donoghue (1998), quoted in *A Piece of the Story: national directory of records of Catholic organisations caring for children separated from families*, Australian Catholic Social Welfare Commission, Curtin, ACT, 1999, p. 4.
- 4 *Restoring Identity: final report of the Moving Forward consultation project*, Public Interest Advocacy Centre, Sydney, 2002, p. 31.
- 5 *National report of the Royal Commission into Aboriginal deaths in custody*, Canberra, 1991, vol. 2, p. 78.
- 6 Australian Bureau of Statistics, *4714.0 National Aboriginal and Torres Strait Islander Social Survey*, 2002, p. 6.
- 7 The first recommendation made nationally regarding records was found at Recommendation 53 of the *National Report*, seeking access by Indigenous people to all government archival records, with a fundamental premise of open documents and negotiation on privacy and confidentiality. The Royal Commission acknowledged that of those 99 Indigenous deaths investigated, 43 had experienced separation from their families, communities or culture as children.
- 8 *Bringing Them Home*, p. 341.
- 9 See *Finding Your Story community forums. Summary report*, Public Record Office Victoria, 2001.
- 10 *Report to Victorian Government*, p. 49.
- 11 *Bringing Them Home*, Chapter 16.
- 12 Anglicare Australia, *For the Record: background information on the work of the Anglican Church with Aboriginal children and directory of Anglican agencies providing residential care to children from 1830 to 1980*, Melbourne, 2003, p. 12.
- 13 Privacy Commissioner, *Families on File: laws, practices and policies for access to personal records by Aboriginal and Torres Strait Islander people*, May 1996, p. 9.
- 14 On supply of a health-care card, pension concession card or a statutory declaration, the application fee will be waived. Where the FOI applicant is a former Ward of State (as is the case for the majority of Koorie applicants to DHS's FOI Unit) the application fee is automatically waived.
- 15 For a discussion of the long-term impact of a childhood spent in institutional care, see *Forgotten Australians*, pp. xv–xvii.
- 16 Aboriginal Affairs Victoria, *Victorian Government response to Bringing Them Home: Implementation Status Report*, 1998, p. 9.
- 17 See Sections 11 and 9 respectively of the Public Records Act 1973.
- 18 Section 10, Public Records Act 1973.
- 19 Information Privacy Principles under the Privacy Act 1988, available at <http://www.privacy.gov.au/publications/ipps.html#f>.
- 20 *Bringing Them Home*, p. 351.
- 21 Comment from 'Finding Your Story' community forum, Ballarat, 2001.
- 22 By way of contrast, in Western Australia and Queensland these difficulties have been overcome with practices of open, administrative release of records within the control of the government. Third-party disclosure in Queensland involves a process of contacting, where possible, the persons identified in the records to advise of an intention to release and sensible negotiation of any obstacles which may arise.
- 23 *Forgotten Australians*, pp. 283–4.
- 24 See Appendix D for a listing of DHS's predecessor agencies dating back to 1864.
- 25 *Victorian Aboriginal Justice Agreement*, Department of Justice, 2000.
- 26 Comment from 'Finding Your Story' community forum, Warrnambool, 2001.
- 27 *Hansard*, 12 November 2003, p. CA 26.
- 28 Submission 61, Mercy Community Services, quoted in *Forgotten Australians*, p. 265.
- 29 Anne-Marie Schwirtlich, Jim Stokes and Paul Macpherson, 'Bringing Them Home: database ethics, culture and information about Indigenous Australians,' *Comma*, 2003.1, p. 142.
- 30 MacKillop Family Services, *Submission to the Senate inquiry into children in institutional care*, July 2003, pp.18–19.
- 31 Berry Street Victoria, *Submission to the Senate inquiry into children in institutional care*, July 2003, pp. 25–26.
- 32 MacKillop Family Services, *Submission*, pp. 18–19
- 33 *ibid*.

