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Victorian Aboriginal Child Care Agency Co-Op. Ltd

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Victorian Aboriginal Child Care Agency (VACCA) submission in response to:

The Royal Commission into Institutional Responses to Child Sexual Abuse

Consultation Paper – Records and Recordkeeping practices

December 2016

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Introduction

The Victorian Aboriginal Child Care Agency (VACCA) is the leading Aboriginal child and family welfare organisation in Victoria. As an Aboriginal community controlled organisation, VACCA protects and promotes the rights of Aboriginal children, families and communities. VACCA's vision is that our children, young people, families and communities are thriving – culturally strong, empowered and safe. Our purpose is to work towards the healing of the Aboriginal community through strengthening the safety, wellbeing and cultural connectedness of vulnerable community members, particularly children.

Our Principles and Values - We believe in the principle of the right of Aboriginal people to self-determination and the rights of the child and we commit to uphold Victorian Aboriginal cultural protocols. Our values are: Best interests of the child, Aboriginal cultural observance, Respect, Healing and empowerment and Excellence.

VACCA's key areas of work are in service delivery, advocacy and training. We deliver around 50 programs across Victoria, offering a broad range of services that seek to:

- ensure child safety and community wellbeing;
- targeted support for Aboriginal people and families;
- maintain strong connections to Aboriginal culture, and
- promote culturally specific ways of growing up Aboriginal children.

Our services are underpinned by principles of prevention, early intervention and therapeutic healing. They are premised on human rights, self-determination, cultural respect and safety. They include supported playgroups, education, cultural activities, emergency relief, homelessness services, drug and alcohol support, family mental health, out-of-home care, justice services and family violence services including an Aboriginal women and children's crisis service. We also deliver cultural training and develop resources for the Aboriginal community and to a range of organisations.

We also advocate at a policy level for better outcomes for Victorian Aboriginal children, families and community members for their right to be connected to culture and to ensure that their needs are represented in culturally appropriate ways through service delivery. We promote for resources to be dedicated to early intervention and prevention that provide culturally relevant support services that keep families and children away from the child protection system.

The Victorian Aboriginal Child Care Agency (VACCA) welcomes the opportunity to contribute to the Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper on Records and Recordkeeping practices. VACCA's submission is based on our unique position as an Aboriginal Community Controlled Organisation (ACCO) which provides the Royal Commission into Institutional Responses to Child Sexual Abuse Support Service, as well as Link-Up, services in both the family violence and child protection areas and more broadly to vulnerable community members experiencing disadvantage. Our submission focuses on areas where VACCA believes our knowledge and experience enable us to make a valuable contribution. Our submission offers the following observations, issues, recommendations and priority actions particularly as they pertain to the Victorian Aboriginal community in which we work.

Key messages and recommendations

Our experience in supporting clients demonstrates that records need be easily accessible and centrally coordinated by an Aboriginal specific service such as Link-Up. This is best practice and this is what must be provided for those who have experienced institutional child sexual abuse. For many Aboriginal clients, they have numerous agencies involved in their care, and to find records from all of these agencies, some of which may be interstate, there is the need for a coordinated approach in the retrieval of these records. In Victoria, there have been numerous attempts to achieve this through the development of common access guidelines, however, its actual implementation has never been achieved (see Unfinished Business Report by Stolen Generations Victoria December 2008).

In addition to records being easily accessible, the importance of timely and culturally safe access is key for those who experienced institutional child sexual abuse. Given the ongoing impact of trauma, including economic disadvantage and high likelihood of poverty that the majority of our clients experience these records must be at no cost to either the client or the Aboriginal agency assisting them. It is also necessary that clients receive culturally safe support in accessing, reading and interpreting records that in all likelihood will have derogatory and offensive language, as well as distressing information that may well trigger a client's trauma. VACCA's role in supporting client's access their files highlights the important role of records for clients in integrating their experiences. When this process is well supported in a culturally safe and trauma-informed way the information obtained can lead to positive outcomes in relation to issues of identity and developing a coherent life story.

A clear and all too common example of this, is where client's have felt very betrayed and unsure of their Aboriginal identity due to having been told their parents did not want them or love them, on gaining their records, they find in fact, their parents tried numerous times to have contact or have them returned to their care to no avail. Sadly in our experience many of these parents have passed on and the trauma of learning the truth, once processed with culturally safe support, assists the client to grow in their Aboriginal identity and find their belonging place.

VACCA recommends the following in relation to Records and Record Keeping.

1. Immediate implementation of all recommendations relating to records made in the Bringing Them Home Report (Recs 21-29) as listed below.
2. Governments must address record access issues, including resources for all Link-Up services across Australia so that they are able to provide more timely and efficient support to clients and their families.
3. Free and supported access to records. VACCA strongly recommends that clients have culturally safe supports when reading their files and processing the information contained therein.
4. Flexible and responsive response from record holders. Clients will often have vague timelines and lack of documentation and record holders need to be able to provide information, where possible, within these constraints.
5. Organisations must train staff to record any abuse or allegations of abuse or concerning behaviours and to ensure records are written in a manner that will not cause any further trauma to a client in later life when they access these records

Background

The issue of Records and Record Keeping was thoroughly investigated and a number of recommendations followed when the Human Rights and Equal Opportunity Commission undertook the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* in 1997. The Report "Bringing Them Home" made the following recommendations on this issue and VACCA believes these are as relevant today as they were nearly twenty years ago. The relevant recommendations are outlined below.

It is of major concern to VACCA that the experiences of our clients in seeking records as part of their Royal Commission journey include many of the barriers and challenges that these recommendations were aimed at resolving nearly twenty years ago.

Destruction of records prohibited

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.

Record preservation

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.

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.

Joint records taskforces

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,

1. develop common access guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles,
2. 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,
3. advise government on memoranda of understanding for dealing with inter-State enquiries and for the inter-State transfer of files and other information,
4. advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information, and
5. advise government on the need to introduce or amend legislation to put these policies and practices into place.

Inter-State enquiries

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

Minimum access standards

25. 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.

FoI in the NT

26. That the Northern Territory Government introduce Freedom of Information legislation on the Commonwealth model.

Indigenous Family Information Service

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.

Training

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.

Indigenous repositories

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.

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.

VACCA's Experience

VACCA has significant experience in supporting clients to access their files and is very aware of the challenges and needs of clients who are looking for their records.

Link-Up Victoria has been a program of VACCA since 1990 and supports the Stolen Generations – that is Aboriginal and Torres Strait Islander people separated from family who were fostered, adopted or placed in an institution to access their records, find and reunite them with their family, traditional culture and country. Our Link-Up service has supported hundreds of clients to find their family and Aboriginal community. Link-Up Victoria also supports Aboriginal and Torres Strait Islander people looking for family who were fostered, adopted or placed in an institution. For Link-Up Victoria accessing records from record holders all over the country continues to be a long and difficult process with each state and territory having their own access criteria, ID requirements and costs. There are also major roadblocks in locating family for our clients when record holders withhold vital information or are unable to work in full co-operation with us due to privacy or other reasons. VACCA would like to see governments address record access issues for all Link-Up services across Australia so that they are able to provide more timely and efficient support to clients and their families.

Link-Up services provided include:

1. Accessing records about separation from family including adoption files, records from children's homes or other institutions
2. Researching family and cultural connections – liaising with Traditional owner groups, interstate Link-Up services, record holders all over Australia
3. Obtaining birth, death and marriage certificates
4. Tracing and locating family members
5. Initiating contact with family members
6. Guidance with family issues
7. Family research advice
8. Providing cultural advice and information
9. Reunions
10. Yarning Up (Counseling)
11. Referrals to appropriate services
12. Advocacy

It is of critical importance that this work is undertaken by Aboriginal people to ensure the cultural safety of our clients.

VACCA concurs with the Consultation Paper's acknowledgement of the difficulties faced by survivors of abuse when seeking access to records including the "distress, frustration and trauma" that poor records and recordkeeping practices have caused. This has certainly been the case for many of the clients VACCA supports through our Support Service for the Royal Commission and Link-Up.

Case Study

A client was unable to access hospital records containing information regarding physical evidence of child sexual abuse as they were unable to be found. The reasons given by the hospital were that

since the information that was requested was over 50 years old and no records could be found through a computer search of their archives it was most likely that the documents were misplaced during the hospital's upgrade from paper records to electronic ones and they never made the transition over to archives. This has had devastating consequences for the client and has held up the legal proceedings being perused (loss of records during transition between physical and digital systems, possibly destroyed prior to public records act 1973).

Conclusion

Ensuring justice for victims and survivors of institutional child sexual abuse, governments and other relevant record holders must implement the recommendations outlined in this submission.

Access to records must take a culturally safe and trauma informed approach. This applies equally to the creation of records for future generations.

VACCA would hope that the influence of this Royal Commission sees a more productive outcome than those stemming from the Bringing Them Home Report tabled in 1997. Had these recommendations been implemented in a timely manner, the re-traumatisation for many of our clients may have been lessened and we would not need to reiterate them again.