

**ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES
TO CHILD SEXUAL ABUSE
ISSUES PAPER 4: 'PREVENTING SEXUAL ABUSE OF CHILDREN
IN OUT OF HOME CARE'**

Submission from Find & Connect web resource project, 8 November 2013

Our submission is primarily concerned with question 11: *What implications exist for record keeping and access to records, from delayed reporting of sexual abuse?* Drawing on our experience working on projects responding to inquiries into Forgotten Australians, Former Child Migrants and the Stolen Generations, the submission addresses the issue of 'historical abuse' of children in out of home care. Despite this focus, we believe that this submission contains information that is relevant to the current and future provision of out of home care (OOHC), and the broader issue of preventing the sexual abuse of children.

Our submission takes the following key points as its focus:

- Records and record keeping play a crucial role in the issue of sexual abuse of children in care.
- Administrative and historical records are not only of great significance to care leavers, but are also potential sources of evidence about the criminal abuse of children in care.
- There is a need for organisations holding records relating to the past provision of institutional care to prioritise records management practices, so that vital records relating to the sexual abuse of children can be discoverable and accessible.
- The Out of Home Care sector has much to learn from the records management sector, particularly from the concept of the 'records continuum'.

Introduction

This submission on Issues Paper 4, 'Preventing sexual abuse of children in out of home care' is from the Chief Investigators on the Find & Connect web resource project (Professor Shurlee Swain, Professor Cathy Humphreys and Associate Professor Gavan McCarthy), and Dr Cate O'Neill, Dr Karen George and Sarah Green.¹ The Find & Connect web resource (www.findandconnect.gov.au) is being developed by an interdisciplinary team from the University of Melbourne and Australian Catholic University, funded by the Australian government through the Department of Social Services. The project is one of a range of initiatives funded by the Australian government following the Apology to

¹ Valuable input was also received from our team of state based historians: Lee Butterworth, Dr Caroline Evans, Dr Rosemary Francis, Gary George, Megg Kelham, Dr Naomi Parry and Dr Debra Rosser.

the Forgotten Australians and Former Child Migrants on 16 November 2009. The Find & Connect web resource is an online public knowledge space, documenting the history of out of home care in Australia, with information to help people who were in institutional 'care' to find records held by past care providers and government agencies.

We submit that records and record keeping play a crucial role in the issue of sexual abuse of children in care. Currently, the critical importance of record keeping and records management is not widely recognised by organisations providing OOHC or organisations holding records relating to past provision of care. This impacts on care leavers' ability to access their records. We see this as a social justice issue. Care leavers are reliant on documentary evidence not only to establish past criminal abuse by care providers, but to make sense of their past and their identity.

The historical records are crucial not only to individuals who experienced institutional care as children, but also to this Royal Commission. The records can shed light on the practices, policies and protocols that operated in children's institutions and government departments over time, and the responses to allegations of the criminal abuse of children in care. We endorse the views of the Academy of Social Sciences in Australia in its submission from November 2012, about 'the importance of incorporating the knowledge and skills of historians into the Royal Commission's terms of reference and operation', together with expertise from the legal, child welfare and health and social services fields:

history ... is fundamental to the understanding of the underlying power relations, attitudes and cultural issues that created the environment in which child sexual abuse was able to occur, and attempts to arrest the practice were stifled. An understanding of historical context would not serve to excuse child sexual abuse but to explore and explain the structural and cultural factors which allowed it to flourish. As past inquiries have shown, detailed historical scholarship also helps victim/survivors to develop a context for their own experiences, removing the analytical focus from the personal to the systemic.²

The knowledge and expertise of historians and records management professionals can play a vital role in understanding and addressing the issue of sexual abuse of children in OOHC. There is a need for increased collaboration between historians, records management professionals, the legal profession, current and past service providers, governments, support and advocacy organisations

² Submission in Response to the Consultation Paper on the Establishment of the Royal Commission into Institutional Responses to Child Sexual Abuse from the Academy of Social Sciences in Australia, November 2012, page 2.

and care leavers so that records management practices and access to these vital records can be improved.

Past record keeping practices

Many government inquiries have drawn attention to the shortcomings of past record keeping practices by care providers and government departments. (see for example Chapter 9 'Identity and Records' of the Senate's 'Forgotten Australians' report.³) Poor practices, and their impact on children in care, have long been acknowledged by some in the sector itself. For example, in 1963, a social worker wrote about how government welfare departments thought about record keeping:

For good or bad, the child went forth into the unknown, a receipt for his person secured, and a brief history of the child sent to the Superintendent of the institution. This history was no more than a précis of the Police complaint, a statement of the court decision, and an itemised account of the disposal of the other children in the family. There the child would remain, and for practical purposes the file was closed, until it became necessary to remove him from the institution. For the time being, the Department had fulfilled its legislative functions, and no further action ensued until it was necessary to make a new decision about his disposal.⁴

For care providers and government departments in the past, there was no business need or compliance need to keep good records about children, let alone to preserve and manage these records in a way that would make them accessible for years to come. It is clear that most care providers had no idea that children would one day return to the organisation as adults, and ask to see the records which they were sure must be in existence. As Wickman writes, '... unfortunately what was momentous to the Stolen Children may have been incidental to the government'.⁵ Nor did the records creators foresee the devastating effects of their lack of recording.⁶

One submission to the 'Forgotten Australians' inquiry from Catholic Welfare Australia discussed some of the rationales behind past record keeping practices:

³ Senate Community Affairs Reference Committee, "'Forgotten Australians'" a report on Australians who experienced institutional care as children', 2004. Available at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2004-07/inst_care/report/index

⁴ Leonard Tierney, *Children who need help: a study of child welfare policy and administration in Victoria*, Melbourne University Press, 1963.

⁵ Danielle Wickman, 'The failure of Commonwealth recordkeeping: the Stolen Generations in corporate and collective memory', *Comma*, vol.1, 2003, p. 119.

⁶ For a more in-depth discussion of this issue, see O'Neill, Tropea and Selakovic, 'Access to records for people who were in out-of-home care: moving beyond "third dimension" archival practice', *Archives and Manuscripts*, (2012), 40:1, pp.29-41.

There appears to have been a deliberate choice in some cases not to have too many details of a child's life recorded so that the child could "start afresh" without the stigma of illegitimacy, or broken relationships. Of course, that has meant that people have often felt devastated because the records that they have been able to access are so scanty and superficial. Also the sheer pressure of the day to day work must have also contributed to not writing up records not to mention the issue, of what kind of information should have been kept which was not e.g. medical and dental records. As stated previously no uniform standards applied until recent decades.⁷

There is a need for more research into how the sexual abuse of children in OOHC was documented in records (or not), and how these records have been managed (or not) by care providers and government departments. We hope that a greater understanding of this issue will be one outcome of this Royal Commission.

Recording sexual abuse of children in OOHC

The extent to which records documenting the sexual abuse of children in care, and institutional responses to these crimes, have been illegally destroyed, suppressed, covered-up and otherwise made inaccessible, is currently unknown. However, we do know that documentary evidence of the abuse of children does survive in the collections of government and non-government organisations. In 2012, the Victorian Ombudsman reported on a collection in the custody of the Department of Human Services, administrative records relating to children's homes. The records in these boxes, containing 'common administrative records' had previously been sentenced for destruction by DHS archives staff, in line with the requirements of the relevant Records Disposal Authority. The Ombudsman's examination of a sample of records from this collection identified several cases relating to the alleged abuse of wards of state:⁸

My investigators viewed a sample of these records during a site visit to the Bourke Street repository in December 2011. Amongst these records were documents relating to the investigation of sexual assault allegations made against a staff member of a former home. The documents contained details of the allegations, police statements of the wards involved, and the response of the relevant home and authorities.⁹

⁷ Forgotten Australians report, p.265.

⁸ Victorian Ombudsman, *Investigation into the storage and management of ward records by the Department of Human Services March 2012*, p.4.

⁹ *ibid.*, p.14

We submit that administrative and historical records are not only of great significance to care leavers, but are also potential sources of evidence about the criminal abuse of children in care.

The search for documentary evidence about institutional responses to sexual abuse needs to extend beyond records like client files and records relating to individual children. As Shurlee Swain wrote in 2007, 'there is evidence in the archives both for the existence of institutional abuse and of individual and systemic responses to the problem ... [but it] is not always found in the obvious places'.¹⁰ This is vital information for people working to support care leavers through the legal process, including lawyers undertaking the discovery process. In the words of the former research historian on the South Australian inquiry into abuse in state care: 'Research to support investigation requires lateral thinking and examination of a wide range of records.'¹¹

This is echoed by a confidential submission to the Parliament of Victoria's Inquiry into the Handling of Child Abuse by Religious and Other Organisations, from a former employee of the Department of Human Services:

not all information related to care leavers is where it should be and can be disguised as low value financial records or handwritten handover notes and therefore, not easily recognised as a page or chapter of a child's time in care. Indications of abuse may be documented in handwritten incident reports of a lower category, or behaviour changes noted, in handover diaries and day books without being reported outside of the immediate care staff.¹²

The team of historical researchers working on content development for the Find & Connect web resource assert the importance of 'peripheral records' for care leavers. Indeed, these records become even more vital when client records no longer survive. Dr Karen George, a member of the team of 'state based historians' was previously employed as a research historian for the Mullighan Inquiry into abuse in state care in South Australia. Historical research played a vital role in the operations of this inquiry and the investigations of each allegation of abuse that was made to the inquiry. (See Appendix 1 for her discussion of the research process that was undertaken for each allegation of abuse.)

¹⁰ See Shurlee Swain, 'Traces in the archives: evidence of institutional abuse in surviving child welfare records', *Children Australia*, volume 32 number 1 2007, pp.24-31. For more discussion about this issue, see also the submission to the Victorian Inquiry into the Handling of Child Abuse from the Who Am I team, September 2012. Available at <http://www.parliament.vic.gov.au/fcdc/article/1789>.

¹¹ See Appendix 1 of this submission, by Karen George, 2013.

¹² 'Name Withheld 3', Submission to the Inquiry into the Handling of Child Abuse by Religious and Other Organisations, 9 April, 2013, p.7. available at <http://www.parliament.vic.gov.au/fcdc/article/1789>.

Megg Kelham, a Find & Connect historian working in the Northern Territory provided an example involving allegations of child abuse from the 1930s, against the Superintendent of an institution known as The Bungalow in Alice Springs. Evidence of this abuse can be found in employment correspondence relating to the Superintendent's wife, who had requested that she stay on at The Bungalow after her husband was fired (her request was rejected on the grounds that she was a married woman, and thus not allowed to be employed under Commonwealth law).¹³

The archives of the United Protestant Association (UPA) in New South Wales have been cited by the NSW state-based historian, Dr Naomi Parry, as an example of the crucial information that can be found on administrative records held by care provider organisations, if researchers know where to look and how to read records closely.¹⁴ Indeed, these administrative and staff records might be more likely to contain evidence than personal files. To quote the former DHS employee again: 'The first place a researcher will look is on the client file, yet this is one place the most controversial information is less likely to be'.¹⁵

The Minutes of the UPA's District Council Meetings contain information about goings-on in UPA children's Homes and often mention the names of individual children. The minutes include information about 'admissions, discharges, parents, relocating children, court appearances, health issues, child welfare department issues and many other items relating to UPA homes/children'. The UPA's collection also includes monthly Matrons Reports from children's Homes. These records contain information about the children, including illnesses and medical or dental treatment received, as well as observations on the children's behaviour. This is the type of information that is highly sought after by care leavers wanting to know more about their childhood.¹⁶ Clearly, this information could also be directly relevant to the investigation of allegations of sexual abuse.

The UPA rightly sees these administrative records as an important source of information regarding children in UPA homes. However, not all organisations holding these types of records appreciate their value. Nor do lawyers, researchers and investigators wanting to find evidence about the sexual

¹³ Email from Megg Kelham, dated 30 October, 2013.

¹⁴ See 'Records held by the United Protestant Association of New South Wales', on Find & Connect, available at <http://www.findandconnect.gov.au/ref/nsw/biogs/NE00741b.htm>.

¹⁵ 'Name withheld 3', p.9.

¹⁶ See for example, 'Mim's story', submitted to the Forgotten Australians inquiry, in which she writes of her desire as a 44 year old adult to find records about her childhood in 'care': '... I want them desperately, and not just for sentimental reasons. There is other documentation, medical records in particular, that I need to understand what actually happened in that lost childhood and what the consequences might be in later life'. Forgotten Australians report, p.268.

abuse of children in OOHC. Furthermore, a lack of transparent information about the record holdings of many organisations also means that the public might not know that these records exist at all.

Improving record keeping – the challenges

We submit that there is a need for organisations holding records relating to the past provision of institutional care to prioritise records management practices, so that vital records relating to the sexual abuse of children can be discoverable and accessible. The long term management and preservation of these records is made even more crucial by the fact that nearly all reporting of sexual abuse of children in OOHC is likely to be years after the offence occurred. To provide just one example of delayed reporting, when representatives of the Hospitaller Order of St John of God, Oceania Province appeared before the Victorian inquiry in April, 2013, Br T. Graham stated that the all of the complaints against 15 of the Order’s brothers were made ‘after 20, 30, 40 years’. Ms R. Harris, Chair of the Order’s Professional Standards Committee stated: ‘it takes many, many years for these allegations to be made. There is a long lead time from the time of the commission of the abuse to when it is actually reported.’¹⁷ There are many reasons for this delay in reporting incidences of child sexual abuse in OOHC – children not being believed at the time of the offences, bullying and intimidation of victims, the effects of the crimes not fully impacting people until adulthood to name a few. Organisations involved in providing OOHC need to understand record keeping as ‘a *long, long* term undertaking’,¹⁸ if they are able to respond effectively to the reporting of sexual abuse.

Despite some gains made in recent years by some organisations, the situation is far from satisfactory and there are no simple, quick or inexpensive solutions. Record-holding organisations are caught in a vicious circle – as pointed out by a submission to the Victorian inquiry by Records and Information Management Professionals Australia: ‘Discoverability is further hampered by the impact of long term maladministration which compounds the cost of addressing record accessibility deficiencies.

¹⁷ Transcript, Family and Community Development committee, Inquiry into the handling of child abuse by religious and other organisations, Melbourne — 29 April 2013. available at http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/57th/Child_Abuse_Inquiry/Transcripts/St_John_of_God_29-April-13.pdf.

¹⁸ This quote comes from Tropea, Elkner and McCarthy, ‘Archiving: moving forward as a community. Report of the workshop held 15 April 2010’, p.11. Available at <http://www.cfecfw.asn.au/know/research/sector-research-partnership/partnership-projects/out-home-care/who-am-i/reports-papers>

Organisations are less likely to invest in addressing historical record keeping practice because of perceived costs incurred to address discoverability deficiencies'.¹⁹

Organisations with relevant records can take some simple steps to improve the accessibility of their records. Projects such as the Find & Connect web resource have provided a way for organisations to make information about their record collections transparent and publicly accessible, as the example of the UPA given above demonstrates. The Records Access Documentation Project grants scheme, run by what was the Department of Families, Housing, Community Services and Indigenous Affairs in 2012-2013 gave grants of up to \$15,000 to non-government organisations to improve the documentation of their archival collections, as well as providing training and resources related to records management procedures.²⁰ Preliminary feedback from grant recipients show that the RADP scheme has led to significant improvements in discoverability and accessibility of records, the location of previously unidentified records relating to care leavers, and improved efficiency within organisations. Such initiatives provide a model for other record-holding organisations to improve their practices and their openness.

We submit that the OOHC sector has much to learn from the records management sector, particularly from the concept of the 'records continuum'. The continuum model differs from the traditional 'life cycle' view of historical records and archives, which was based on the idea that records, once they passed into the archival realm, were finished with and thus inert. According to the continuum view, the role of recordkeeping professionals relates to setting up recordkeeping regimes that can ensure that from their creation, records are managed in ways that enable them to fulfil their multiple purposes in the present and over time.²¹

¹⁹ Records and Information Management Professionals Australia (RIMPA), Submission to the Inquiry into the Handling of Child Abuse by Religious and Other Organisations, September 2012, p.2. available from <http://www.parliament.vic.gov.au/fcdc/article/1789>

²⁰ Some of the RADP records management resources are available from this page: <http://www.findandconnect.gov.au/resources/radp/>

²¹ Australian archival theorists McKemmish, Upward and Reed write: 'Records continuum thinking takes a multidimensional view of the creation of documents as part of our activities (record-as-trace), their capture into records systems (record-as-evidence), their organisation within the framework of a personal or organisational archive (record-as-personal/corporate memory), and their pluralisation as collective archives (record-as-collective memory)'. See their entry, 'Records Continuum Model' in the *Encyclopedia of Library and Information Sciences, Third Edition* (2010), p.4448.

Conclusion

Record keeping and access to records is a fundamental issue for this Royal Commission, for the current and future provision of OOHC, and to the prevention of sexual abuse of children in OOHC. As Stephen Crittenden wrote in the *Global Mail*:

We know that abuse flourishes in the dark – and over the coming months and years we will learn about the extent to which it flourished in institutions where voiceless and vulnerable children were kept away from the public eye.²²

There is a clear need for increased collaboration between historians, records management professionals, lawyers, social workers and child protection practitioners to improve our knowledge about the sexual abuse of children in OOHC, in the past, and in the present and future. Service agreements between governments and organisations providing OOHC need to acknowledge the vital importance of record keeping, and organisations need to be supported to improve their records management practices. An holistic, ‘continuum’ view of record keeping would benefit the sector and ensure that all significant records are appropriately managed and preserved and accessible to the community in the future.

²² Stephen Crittenden, ‘The dark records of broken lives’, *Global Mail*, 17 April 2013, available at: <http://www.theglobalmail.org/feature/the-dark-records-of-broken-lives/594/>

Appendix 1: Dr Karen George, response to the question ‘What implications exist for record keeping and access to records, from delayed reporting of child sexual abuse?’, 31 October 2013.

Dr Karen George is one of the state-based historians employed by the Find & Connect web resource project, developing content relating to South Australia and the Northern Territory. Karen is the author of a key guide to records in SA. Previously, she was employed as a research historian during the South Australian Children in State Care Commission of Inquiry, 2004-2008 (also known as ‘Mullighan Inquiry’). This document outlines the research process that was undertaken to investigate allegations of abuse received by the Inquiry. It demonstrates the wide range of departmental records which should be consulted when investigating the abuse of children in ‘care’.

‘What implications exist for record keeping and access to records, from delayed reporting of child sexual abuse?’ This question can be interpreted in two ways.

1. In relation to historical cases of abuse
2. In relation to current day record-keeping and delays in keeping appropriate records about incidents of abuse

These notes primarily address records relating to historical abuse. However, the same types of records may need to be searched in relation to current day cases. Delays in creating records due to lack of knowledge about standard procedures and types of records to be kept in cases of abuse may affect the recording of vital information in present day cases. High staff turnover, the pressures on residential and other care workers and a lack of induction and training would contribute to this.

Historical Abuse cases

Drawing on experience from working as a research historian for the South Australian Children in State Care Inquiry (2004-2008), when someone comes forward to disclose an incident of abuse that happened in the past, every type of record which still survives in relation to the child needs to be scoured for information. In the past child or client files were not always the primary place where information about a child was filed. Research to support investigation requires lateral thinking and examination of a wide range of records.

In SA during the Inquiry we would search the following in relation to children in State Care. Similar records would be searched for children in non-government Homes run by religious or other organisations:

- Children’s Files and Client Files – obviously these are central but in the case of SA many were destroyed and only a sample kept – making the need to search other types of records critical.
- State Ward Index Cards – these index/admission type records may have brief notes on times when children were visited and issues and provide further references to related files. In relation to non-government Homes, admission cards and records may give indications. This was the case in relation to one Church of England Home investigated during the Mullighan Inquiry.

- Correspondence files – both by name of child and any which related to the institution as they may raise issues. These were generated in the past about all sorts of subjects, issues, families and children.
- Minutes of the State Children’s council and its successors - Council and Board meetings would be the place where issues relating to abuse were often discussed and decisions made. Minutes also mentioned staff hiring and firing in the past. In relation to non-government Home – minutes of management committees may discuss these matters.
- For more recent information – Minutes of Executive Committee meetings where these issues may also be discussed.
- Administrative Files on Homes – these often contain reports from visiting welfare offices. In the case of one particular Salvation Army institution, this was the case.
- Other Government administrative records – recently I found mention of an incident of abuse in a National Archives file relating to agreements and relations between the NT government and a missionary organisation running a Home.
- Staff records – these often caused a problem because many are temporary records and had been destroyed. Details of staff had to be found through other records such as minutes and reports.
- Standard Procedures and Standards of Care manuals– although these did not relate to the child specifically, they revealed what was supposed to happen in relation to a case of abuse at the time. These would be related to children in Residential Care, Foster care and later on specific procedures in relation to Child Protection. By knowing what was supposed to be done, the actions of staff in an incident could be examined against this background.
- Legislation and regulations – as above, provide the context and the requirements against which an incident can be examined.
- Log Books from secure care centres – These were kept in the centre and filled out by the staff on the various shifts, describing incidents etc. These required scanning of every single page related to the period in which the particular child was in the institution to find their names. These also provided the names of staff working at particular times, visitors and movement of children in and out of the centre. Non-government Homes also often kept Day Books which recorded similar information.
- Visitors Books – these list names and details of individuals who visited the institutions at different times.
- Correspondence and other records relating to Holiday Hosting – often valuable in relation to non-Government Homes where families took children for holidays.
- Matrons and Superintendents reports – particularly in relation to non-government Homes. These were often, in the past, quite detailed.
- Mission records and reports – missionaries were prolific reporters. Incidents of abuse and names of children were found in mission records during the Inquiry.
- Newspaper articles from the time – sometimes abuse was reported or incidents at various Homes.
- Existing oral histories and memoirs – these may provide background information, names of staff, memories of incidents etc.