



**“CHILDREN IN NEED:
WHY RECORDS ARE CENTRAL TO IDENTITY AND JUSTICE”**

STATE RECORDS OFFICE OF WESTERN AUSTRALIA

GEOFFREY BOLTON LECTURE

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Andrew Murray

Commissioner

Royal Commission into Institutional Responses to Child Sexual Abuse

Acknowledgements

I will begin by acknowledging the traditional owners of the land on which we meet and pay my respects to their elders past and present.

I thank the West Australian State Archivist and her colleagues for the invitation to present this paper. I also offer my respects to those attending tonight, particularly those intimately engaged in the work of the Royal Commission.

Introduction

This paper is titled ‘why records are central to identity and justice’.

It is self-evident that anyone seeking justice needs accurate records.

When it comes to identity however, the need for meaningful records escalates sharply for the hundreds of thousands of Australians who have been in care.

While records are important to every child, whatever they do, it is why this paper has many references to care situations.

However, make no mistake, the Royal Commission's review and records recommendations will cover every relevant records circumstance, from schools to sports clubs.

If those in care lose identity, and they later search for identity, then they will search for records. The search for one leads to the search for the other.

My own impression is that the importance of 'identity' is underestimated by many in the general community, perhaps because they have never lost it or been disconnected from it.

The common thread of those who have ever been institutionalised or in care is that their attachment to their origins, their family, their home and their past was cut or damaged.

That identity is complex its true, but the need for it can be expressed simply and with great clarity, as with this quote from a witness that opens Chapter 9 of the Senate's 2004 *Forgotten Australians* report:

*All he wants is to know who he is. He is entitled to know his heritage.
Our children and our grandchildren are missing their heritage.*

In 2014, the Royal Commission examined the Christian Brothers' treatment of children at four children's homes in Western Australia. In that public hearing, held here in Perth, we heard from one savagely abused man named John Hennessey. This year, John died.

I had known him for 20 years and counted him a friend. He was a magnificent man. He was a long-time campaigner for justice and was the former deputy mayor of Campbelltown.

Michael John Patrick Hennessey was born in 1936, in Cheltenham, Gloucestershire. His mother, May, had been sent over from Ireland ahead of John's birth. She had no friends or family in England. John was taken into an English orphanage, and at the age of eleven was sent to the Catholic Christian

Brothers in Western Australia under the Commonwealth Child Migration Scheme.

He was sent without his mother's knowledge or consent. John told me that his mother was told that he had died. John was her only child.

The search for his mother consumed most of John's adult life. He was hampered for decades by the lack of historic records relating to his early life.

The breakthrough came after he connected with the Child Migrants Trust, which managed to trace his mother in 1999. John finally found her when he was 62 years old and his mother was 86.

Beyond his mother's name on his birth certificate, there were no other records to be found in the care institutions or elsewhere that would help identify John's mother or her family. Her age and place of origin were not recorded, nor details of their first separation.

The search undertaken by the Child Migrants Trust itself spanned ten years, and required identifying every possible "May" or "Mary Hennessey" between the ages of 16 and 45 years in 1936, with various spellings of the surname across the United Kingdom and the Irish Republic.

165 possibilities were identified, and each person had to be identified and investigated to determine whether they might be John's mother. She was finally successfully located - the 56th person investigated. The research was long, painstaking, detailed, sensitive and forensic. It was also at no charge to John.

John's eventual reunion with his mother was unreserved and embracing. For the remainder of his mother's life, John travelled every year to be with her. Everywhere he went, including when giving evidence to us, he carried a framed picture of his Mum.

John counted himself 'one of the lucky ones' to find his mother before it was too late. In the six years they had together before her death, they experienced a little of what most of us take for granted: a chance to buy flowers for his Mum, and to sit and chat over a cup of tea.

Records are about people. They can contain information about a person's life which may not form part of their knowledge or memory. Information in records can help people understand who they are and where they come from.

They can tell a story about identity, parentage, birthplace, origins, home, childhood. They can reveal major life events or tiny, but telling, details. They can hold the clue to health issues and hereditary traits.

Multiple records can together provide a life-long story for some people.

It's not enough to just have records - you need a system to hold them together to create stories of people's lives and experiences. The means by which records are kept can be just as crucial as the records themselves.

The late Geoffrey Bolton, in whose name this lecture series is held, was a distinguished Australian historian, and was passionate about archives and recordkeeping. Tonight, I want to talk with you about why accurate recordkeeping is about more than just good governance, as Professor Bolton, I'm sure, knew well.

The Royal Commission

I am one of six Commissioners at the Royal Commission into Institutional Responses to Child Sexual Abuse.

The Royal Commission has heard from victims and survivors of child sexual abuse through many thousands of written accounts sent to us, through personal accounts told to us in what will, by the end of 2017, be nearly 9000 private sessions, and through evidence in what will be over 50 public hearings.

We have conducted a very extensive research and policy program, and have held many public and private community forums and roundtables. Plus we have the very extensive information we have ordered produced to us. We have endeavoured to inform ourselves as thoroughly as possible. And, as you would expect, we have kept very careful records.

Of interest on that front - the amendment to the Commonwealth's *Royal*

Commissions Act specified that for the purposes of the *Commonwealth Archives Act 1983*, records that relate to private sessions, or contain information obtained at a private session, are not publicly accessible for 99 years after they are created.

This provision is sensitive to the historical importance of these records; ensures that these stories of trauma and suffering are archived and available to future generations, but also reflects the time-sensitive nature of these sessions.

We have been undertaking our work since being established in January 2013. Our task, which ends in December 2017, is to inquire into:

- what governments and institutions should do to better protect children against institutional child sexual abuse in the future;
- best practice in encouraging the reporting of allegations and the response to reports of child sexual abuse in an institutional context;
- reducing or eliminating impediments to appropriate responses;
- alleviating the impact of institutional child sexual abuse, including in ensuring justice for victims through redress, criminal justice processes, and support services.

Problems with the records and recordkeeping of institutions have arisen directly or indirectly in almost all of our public hearings and in thousands of our private sessions with survivors. Many have told us of the distress, frustration and trauma that poor institutional records and recordkeeping and access practices have caused them. In many cases the impacts of this were profound.

The absence of records, paucity of detail, inaccurate or insensitive content, and the loss or destruction of records, as well as significant difficulties experienced when seeking access to records, have all been raised with us as significant concerns. While each of these issues can individually cause distress, their cumulative effect can be devastating.

Problems with historical records

Many people who have come forward to us are trying to access what I'll refer to as 'historical records' – that is, those created before the 1980s. These people are now well into the middle and later stages of their lives, many of them trying to piece together what happened to them as a child. Some are trying to pursue legal action.

Unfortunately, while some institutions did have recordkeeping policies and practices in those times, our public hearings have shown that historical records were often of low quality compared to what is expected today.

Before the 1980s, most institutions within our Terms of Reference were not legally obliged to create or maintain records about their care of children. Recordkeeping practices varied considerably, even between institutions in the same sector. They were often ad hoc and unsophisticated, judgemental and inaccurate.

Absence of records

In some cases we heard that historical institutions did not create records about the children in their care at all. Several care leavers have told us that their whole childhoods in care were undocumented; some were never even given their birth certificate.

In private sessions, Commissioners have been told many times of institutions even denying that particular individuals were ever in their care, relying on an absence of records. In one case we heard that an institution claimed an alleged perpetrator never worked for it because the institution had kept no employment records.

In our public hearings into Marist Brothers schools in the Australian Capital Territory, and Christian Brothers orphanages and schools in Western Australia, we found that there were virtually no written records held by them of any allegations of child sexual abuse against Brothers.

The public record now shows that across Australia, significant numbers of Marist and Christian Brothers have either been convicted of, or reported for, child sexual abuse.

Another of our public hearings examined the response of the Salvation Army to child sexual abuse at its boys' homes in New South Wales and Queensland. In that case study, we found that detailed records of homes or of individual boys were either not kept or were made not available to the Royal Commission.

There were no written records of complaints of child sexual abuse against two staff members in the Salvation Army, despite there being a considerable number of allegations of physical and sexual abuse of children in their care. Without records of all the complaints received, the institution was unable to accurately determine how prolific the abuse was, and the extent of abuse perpetrated by particular individuals.

In our inquiry into the Catholic Diocese of Wollongong, we heard evidence that Father Brian Lucas was asked to interview a priest about rumours and complaints about his conduct with children in the early 1990s. Father Lucas did not record the interview or take any notes – this was his usual practice.

We found that as a result of this, there were no written records of any admissions of criminal conduct. If available, such records might have been able to be used in a subsequent investigation or prosecution.

Inaccurate, inadequate and insensitive records

Even when records are in existence, they may be utterly inadequate. We have heard several examples of files purportedly representing a decade or more in care amounting to only a few pages, leaving the individual feeling that their childhoods were meaningless and insignificant.

One survivor who attended a private session with a Commissioner had recently received her ward file. She had expected it to be quite thick. In fact it only contained a few pages. She said:

‘When I got this I was shattered, this is supposed to be my life.’

Another survivor told the Commissioner of her disappointment when receiving her files. She said simply: 'There's nothing in them.'

Care leavers from Aboriginal and Torres Strait Islander communities have told us that they felt diminished by the lack of detail in institutional records created about them.

For many, the absence of family details or of information about heritage and ethnicity, personal development, friendships and experiences has been deeply hurtful and disappointing.

The lack of records can also cause frustration when basic documentation is required for routine applications that most of us take for granted.

We had one survivor who told the Commission about her experiences in state care as a toddler. Later in her life, at age 20, she was planning to make her first overseas trip and went to apply for a passport. It was only then she discovered that she didn't have a birth certificate. Her birth was not registered.

The birthdate she had been using her whole life was one that the Welfare Department had given her – they had based it on the date she arrived in care, and estimated her age based on the development of her teeth at the time.

The survivor remarked to the Commissioner that she now feels like a horse.

It took her two long years of navigating red tape to finally get a passport. Having lived here all her life, she was forced to become an Australian citizen by application, as she was told there was nothing to prove she was an Australian. She spoke about the desperation she has felt over the lack of records in her life.

Other survivors have told us of the deep hurt they have felt when reading insensitive or inaccurate descriptions of themselves in institutional records. For some, it has been traumatising.

We heard one example where a 14-month-old child was described as 'manipulative'. In another file, a child with learning disabilities was described

as 'dumb' and 'backwards'. In another, a young girl was labelled as 'naughty' when she absconded the institution to escape from child sexual abuse. One young abused child was described as 'mentally retarded and emotionally deprived'.

One survivor in a private session said she had recently received her welfare files and found there was so much missing and so many wrong entries. The files described her as 'uncontrollable'. She rejected this description, telling the Commissioner:

'I was a traumatised child born into a dysfunctional family affected by alcoholism.'

Some survivors have told us that their files contain details about visits by authorities that they believe simply never happened. One person told us this:

'I've read my records, and there are a lot of mistakes in the records, which aren't true. Because they never did come around and visit us once.'

Another survivor described some details in her file, explaining why she was in care in the first place, as a 'straight-out lie'.

Records destroyed

Another problem we have encountered is of records being destroyed - sometimes inadvertently, but more often in line with institutional policy or records disposal schedules. It appears to us that many historical records were destroyed with little consideration for their potential future relevance, or their significance to the individuals concerned.

Some records were simply not stored adequately or securely. Others were lost in natural disasters like the records for the Retta Dixon Home in the Northern Territory destroyed by Cyclone Tracy in 1974. In that same year the Brisbane floods destroyed a substantial number of archived records of the Queensland Child Protection Department.

Contemporary records

The battle to improve record-keeping for care-leavers has been a long one.

The federal Attorney General's 1995 reference that brought about the 1997 *Bringing them Home* report was to 'trace the past laws, practices and policies that resulted in the separation of Aboriginal and Torres Strait Islander children from their families by compulsion, duress or undue influence and the effect of those laws, practices and policies'.

The Terms of Reference included: 'examining current laws, policies and practices affecting those who suffered separation under compulsion, including access to records and assistance in locating and reunifying families'.

The Senate's 2001 report, *Lost Innocents: Righting the Record—Report on Child Migration*, came to highly critical conclusions that included noting the 'appalling inaccuracies and discrepancies in data on the numbers of child migrants' held by governments and receiving and sending agencies; and concluded that evidence indicated that, with regard to sending and receiving agencies this was due to 'deliberate fraud or criminal neglect'; and that 'Parents were lied to as to the fate of their children, and children were lied to with respect to their origins, parents and status.'

Thankfully, there have been improvements in the way records are kept. Since the 1980s, many statutes have been enacted across Australia to govern the recordkeeping practices of state and non-state institutions.

Some of these developments have come about in response to recommendations of major national inquiries, such as the *Bringing Them Home*, *Lost Innocents* and *Forgotten Australians* reports. Others have developed in line with general reform to child protection and to children's services.

Despite this, the Royal Commission has found that there are still significant problems with recordkeeping practices in institutions. For example:

- In schools, recordkeeping obligations can vary between jurisdictions and school types – whether they are government or non-government.

- There is a lack of consistency in the disposal of records about children, child sexual abuse, and other abuse in institutional contexts.
- There is also a lack of consistency on how children and others access records.

The Monash University Centre for Organisational and Social Informatics had this to say in its submission to our *Consultation Paper*:

‘In short, there is no single unified approach to recordkeeping and archiving embracing government and non-government sectors.’

In the case of care leavers in particular, accessing records from children’s homes, orphanages, residential care facilities and other out-of-home care institutions such as foster care, are particularly important.

Care leavers usually have little familial oral history or records to go on, and these institutional records may contain the only surviving link to their families, personal history, and childhood.

Bear in mind that this is a contemporary issue, since about 45 000 children are presently in care.

Detailed legislative provisions and policy have now been adopted in each state and territory about the creation of records about children in out-of-home care. However, we heard in our public hearing that there are some considerable discrepancies in the quality of records created by different out-of-home care providers.

We heard from several recent care leavers that the question about their time in care they most wanted answered was why they were placed into care in the first place. They indicated that they were still searching for answers to this question, despite having had access to the records about their care placements.

There can even be considerable inconsistencies between staff at the very same institution. The President of the Australian Foster Carers Association, Bev Orr, put it this way at our public hearing:

'It really depends on the worker ... who ever may be documenting what is happening, it depends on them. Some of them are very good at writing file notes and documenting things. Others, you will find a lot of information is subjective as opposed to absolutely critical evidence. Invariably, it's negative. It's very rare to see positive things. But I think there are a couple of other issues ... there is not a mindset about understanding what this may do to a child or young person when they find the information out later and how destructive that is to them, because there is not one positive thing on their file.'

We also heard that some out-of-home care providers and their staff see the obligation to create detailed records as time-consuming, frustrating and a distraction from what they consider is their 'real' work of providing or administering care placements.

Guidelines not being followed

Beyond the out-of-home care sector, many institutions have developed sound recordkeeping guidelines in recent times – but they are rendered useless when staff don't know about them or don't follow them. We have heard several contemporary examples of institutions that did not adhere to their own policies in recording allegations and complaints of child sexual abuse.

In our public hearing into the response of the Toowoomba Catholic Education office and a primary school to the offending of Gerard Byrnes, we found that although there were records policies in place, these policies were neither implemented nor followed by staff at the school. Where records were made, critical information in relation to a child's disclosures was omitted.

Three different staff members who received allegations of child sexual abuse did not make written records using the form required under the student protection kit. These three staff members were the principal, the deputy principal and one of the school's two 'student protection contacts'.

The principal confirmed that prior to September 2007 he had never sat down and read the student protection kit 'word for word'. He also said that his

understanding of its contents ‘came from his attendance at child protection training’.

The deputy principal didn’t fare much better. Although she had been told in ‘one or more’ training sessions to read the student protection kit, she had, quote, ‘never read it from cover to cover’. Needless to say, this affected their knowledge of their obligations and their capacity to comply with the policy.

There is still a lack of understanding about the purpose of records, what should be recorded and the potential consequences of inaccurate records. In our public hearing into Scouts Australia NSW, we found that grooming actions by Steven Larkins were not effectively recorded or communicated to those responsible for appointing and supervising leaders within Scouts.

Allegations against him were not permanently recorded on his file, which lead to missing information for senior Scouts leaders. This case study also revealed police officers’ lack of recordkeeping practices when taking statements from three key witnesses, which lead to inaccurate information recorded in their system.

We have heard some examples of contemporary institutions choosing not to record information relevant to child sexual abuse to avoid documenting the extent of institutional knowledge about potential liability.

Retention periods

Another issue is the lack of obligatory retention periods. Retaining public and private records is critical when considering that, because of its nature and impact and the great difficulty people have in coming to terms with it, most people first disclose their sexual abuse when they were children many years after it took place.

On average, victims and survivors who have spoken to us report that it takes over 20 years to disclose their sexual abuse as children.

However, the limited records retention periods for public schools in some jurisdictions mean that some contemporary institutions are able to destroy records that may be highly relevant to successful claims well within 20 years of their creation.

It therefore seems that records that are or may be relevant to child sexual abuse should be subject to minimum retention periods that allow for the common fact of delayed disclosure.

We recognise that not all records should be archived and retained in perpetuity, and some categories can be destroyed.

However, the destruction of institutional records relevant to children and child sexual abuse, (such as complaints, investigation reports, employee records, and accounts of disciplinary action), are in a different category. Destruction can have serious consequences for victims and survivors trying to get justice, accountability or treatment for the harm done to them.

We do recognise that retaining large volumes of records for extended periods may be difficult for some institutions, for example, those with limited resources, small staff numbers or limited physical storage space.

There is another side to records access we are aware of. It should be noted that a small number of victims and survivors, particularly care leavers, have told us they object to records about them being retained for lengthy periods or in perpetuity, and are frustrated at their lack of agency in this respect.

This is what one person told our out-of-home care hearing:

‘I want my records destroyed when I die. I don't want anyone to read them, particularly my children and grandchildren, because they are so negative about me. But the department – and that's the New South Wales government – say that they are their records, they are not my records.’

Digital records

Another concern about contemporary recordkeeping is the increased reliance on digital technology to maintain records. Over the past two decades, many (if not most) of the institutions we have examined have begun using digital technology to create and maintain their records.

Several stakeholders have told us that they are worried about the security and longevity of digital records. They may be vulnerable to file corruption and

tampering, and potentially become irretrievable over time as the technology with which they were made or stored becomes obsolete.

Access to records

Turning now to the challenge of obtaining records.

Knowing where to begin a search for records, or which institution or body to ask for advice or access, can be daunting and mystifying – especially when the institution that created the records no longer exists, or its name and function have changed over the years.

We have heard that victims and survivors can be very reluctant to re-engage with institutions in which they were abused. They feel disempowered by a system that they perceive effectively requires them to rely on the good graces of the institutions responsible for their abuse.

Many victims and survivors lack confidence about how to assert their rights to access records about themselves. Many feel ill-equipped to begin the process of requesting access to or amendment of records about themselves.

Many are unsure about where and from whom they can seek assistance. Although several support services exist to help some people locate, access and interpret records, most people do not know of or use such services. We understand that many victims and survivors find navigating the current systems complex, costly, adversarial and traumatising.

Freedom of Information

There have been improvements. Every Australian jurisdiction has by now enacted Freedom of Information legislation that gives individuals a legally enforceable right to access public records.

Freedom of information and privacy legislation is meant to provide a clear, transparent, and consistent process for individuals to seek access to and amendment of records about themselves.

However, many victims and survivors have told us that they are still finding it very hard to access historical records about their time in care, or the

institution in which they were abused. We have been told of both public and private institutions responding to access requests with suspicion and defensiveness. This is frustrating and distressing for many people.

Institutions do have legal ownership and physical control of the records they create and hold. That may seem straightforward until you think about who should have rights over primary documents like birth certificates or school records.

The fundamental principle, which is reflected in many information privacy and other laws, is that people have a right of access to personal information about themselves held by organisations, and a right to seek correction of records that are incorrect.

Records can contain intimate and personal details about individuals. Individuals whose lives are documented in such records are often, understandably, very keen to see what is said about them, and sometimes want to amend errors.

Requirement to be specific

Often the first challenge when accessing documents is the requirement for an application to be very specific. Survivors are being asked to specify what particular records are sought, rather than being able to seek access to a general class of documents. In our out-of-home care public hearing, one recent care leaver named Tash put it this way:

‘We had to give specific parts of our lives that we wanted ... just going from ‘this year’ to ‘that year’ wasn't enough... for me it's going to be a long process.’

Clearly, if someone is seeking records that may have been made many years or even decades ago, providing that level of specificity can be difficult.

Tash also stated that she was asked to give reasons for wanting to access her departmental case file. This is despite the fact that section 10 of the Freedom of Information Act in Western Australia states that a person’s right to access

documents is not affected by any reasons he or she may have for wanting to do so. This same principle is reflected in other jurisdictions' legislation.

Tash told our public hearing:

'I had to give certain reasons for which part of my life I actually wanted. That I just wanted my whole case file wasn't a good enough reason.'

We have also heard that institutions' own poor indexing and lack of knowledge about what records they hold can make even the most precise application unsuccessful.

Incomplete records

We have heard several accounts of institutions giving victims and survivors a so-called 'complete' set of records, only for additional records to be discovered years later.

In some cases, we have discovered that the Royal Commission has received more complete records about individuals in response to our summonses than the individual received in response to their own access requests.

Amending records

Some advocates have suggested to us that institutions do not always advise people that they have the right to seek to amend or annotate their records. We have also been told that some institutions can be reluctant to accept that the content of their records is 'incorrect'.

Some jurisdictions' legislation explicitly allow public record holders to refuse to amend records that are 'historical only'.

Cost

Another issue for many victims and survivors is the cost. In most jurisdictions, there is a fee of around \$45 per application to access general public records. There are application fees and processing charges.

Even though there are often waiver provisions, many applicants find costs and fees a challenge.

Third party-privacy

A number of victims and survivors have cited the protection of third-party privacy as an obstacle to gaining access to their records. Private organisations can refuse access applications if they consider it would have ‘an unreasonable impact’ on the privacy of a third party.

We have heard that some organisations are interpreting this widely and inconsistently to justify refusals.

In the case of public institutions, care leavers have told us that they have been wrongly advised that it is their own responsibility to seek the consent of those third parties mentioned in records before those records can be released.

A ‘catch 22’ situation results. The applicant wants to find family, to do that they need access to the records, but they can’t access the records until they’ve got the approval of the family.

These third parties can include immediate family members, deceased persons and professionals. Rulings that even immediate family members are termed ‘third parties’ is baffling for many victims and survivors.

Many care leavers have a strong, and very understandable, need to reconnect with family, and privacy obstacles can have a traumatising effect,

Some have expressed their disbelief that records about them may be withheld simply because they contain discussion of objective information about an immediate family member - for example, his or her name or date of birth.

Refusals and redactions

There are circumstances where access requests are justifiably refused in whole or part. But refusals and redactions, particularly without a clear explanation, have been a source of considerable frustration and disappointment for many victims and survivors.

Some survivors told us how information that was disclosed in some documents was redacted in others. Tash, who I referred to earlier, told us that when she

and her sister applied together to receive access to files created about their time in out-of-home care, information that was identical in both files was redacted in the file about Tash's time in care, but not in the file relevant to her sister. No explanation was offered for this inconsistency.

Another survivor told us in a private session about her Freedom of Information application. She was told that her file had 300 pages. Of these, she received 17, and most of those were heavily redacted. She said:

'Everyone should have the right to know, 100 per cent, about themselves. And no one in government, and no one else anywhere, should have the right to say no, you can't know everything.'

She also said that people need support when they embark on the process of accessing their state ward files, as it can be a very emotional journey.

Requests to access records can be handled poorly and insensitively. One woman shared her story with us of being placed into an orphanage as a child.

Every school holiday, the nuns at the orphanage sent her and her sister to stay with a couple on a farm. A man at the farm sexually abused her and her sister during these visits.

This woman told the Commissioner that, as an adult, she had applied for her records from the orphanage. She disclosed that she had been sexually abused on her 'holiday' placements. She received a letter back from the Mother Superior referring her elsewhere for her records. The letter also stated: 'I am sorry you have unhappy memories of your holiday family'. There was no assistance or follow up after that letter.

Some people regret accessing their files

Accessing files can stir up painful memories, and it is why some groups and institutions now offer support when files are read by a survivor of abuse.

The Royal Commission held a private session with one man who was made a ward of the state when he was 18 months old. He and his sisters were handed over to the institution by their parents. He was in care for 12 years. Not long

ago, this man obtained a copy of his records as a state ward. Years of lost memories came flooding back – details he had completely forgotten. He said this to the Commissioner:

‘I sometimes lie awake at night and wish maybe I would’ve been better off not looking at that file.’

As well as shocking details of the sexual abuse committed against him, this man’s files also contained some painful and poignant memories. He said:

‘[The home] had a swing, over by the big driveway down the hill. I remember I used to swing on the swing waiting for my mother to drive up that driveway. For years I did it. It even said it in the report - just on the swing for years. Just waiting.’

Another survivor, whose records contained graphic depictions of injuries she sustained as a result of the abuse, said this to the Commissioner about reading her file:

‘I shut it and I didn’t read it again ... I tried to forget it but I haven’t been able to ... It just hasn’t helped me at all.’

The way forward

So, these are some of the problems we are facing. What of the way forward?

A few months ago, the Royal Commission released a consultation paper looking at records and recordkeeping practices in institutions that care for and provide services to children. Submissions on that paper will be published on our website soon.

The consultation paper proposed five high-level principles for good institutional recordkeeping practices.

The principles are:

1. Creating and keeping accurate records is in the best interests of children.
2. Accurate records must be created about all decisions and incidents that affect child protection.

3. Records relevant to child sexual abuse must be appropriately maintained.
4. Records relevant to child sexual abuse must only be disposed of subject to law or policy.
5. Individuals' rights to access and amend records about them can only be restricted in accordance with law.

In addition, we asked for people's views on whether a sixth principle - directed at enforcing those five principles - was required.

We also sought submissions on whether an advocacy or support group was needed to provide advice and support to victims and survivors seeking access to institutional records.

These principles do not represent our final view. We will be carefully reviewing all the submissions in order to come to appropriate recommendations on the best way to improve the system of records and recordkeeping.

Life histories

One thing to consider is 'life histories' or 'life story books'. The absence of the records of childhood that many people take for granted, including birth certificates, photographs, artworks, school reports and medical histories, can have catastrophic effects.

Many victims and survivors have told us that, without typical childhood records and mementos, they feel lost and incomplete.

The adoption of the National Standards for Out-of-Home Care has provided a benchmark for recordkeeping in the sector. Although non-binding, the National Standards, agreed by all Australian governments, focus on improving out-of-home care for all Australian children and provide some useful guidance on good recordkeeping in the sector. This includes that:

‘children should have their ‘life histories’ recorded as they grow up, to ensure their childhood memories and experiences are captured and recorded.’

Life histories are records that are made for and with the participation of the child, who is the ultimate owner. They contain tangible representations of childhood, such as art works, mementos and photographs, as well as accounts of children’s friendships, outings, academic or other achievements, and birthday celebrations.

President of the Australian Foster Carers Association, Bev Orr, told our public hearing the following:

‘The child has a right to have images stored, and good stories told about significant events in their life – their first day of school, their first tooth that fell out and whether the tooth fairy came or not. Even little things like that are very important and we need to keep those. If a child is moving through placements, that's the sort of stuff that is lost.’

One person told the Royal Commission that she only has one photo from her time in care, when she was in her mid-teens. Think of that: only *one* photo from her entire childhood. She told the Royal Commission this:

‘I think every kid that goes into care, the government should make sure – it doesn’t matter whether they’re in a home or whether they’re in foster care – the government should have it compulsory that photos get taken and put on their files.’

Personal story

Finally, something personal to help illustrate how records affect individuals.

Me being what is sometimes known as a ‘homey’ is quite well known. I was born in England. My mother wasn’t able to look after us. At the age of two I was put into a children’s home in Brighton in Sussex.

Then at the age of four I was sent as a child migrant to the Fairbridge children's home in Rhodesia. My mother followed when she could, and reformed the family when I was about seven.

She died when I was 26. I found a letter which in my 50s finally led me to more family. I also found a tiny red notebook with one sad line from her about me. It contained a small clue, an oblique reference which led, also in my 50s, to me asking the Brighton City Council if they had my welfare file. They couldn't find it. A year later, I tried again.

They found a precious few pages of un-redacted information about my family and my years from 2 to 4, which included that my grandparents couldn't take care of us because my grandmother had tuberculosis.

In contrast, my search for Fairbridge Rhodesia records was hopeless. Their policy was for all records to be burnt, and burnt they were. Same child, different institutions, different records policies.

This little story demonstrates how unlocking your identity can come down to chance and fortune. If not for that letter and a single random reference in a notebook, and an institution that kept its files, I would be without answers.

One other story concerns the importance of oral records. The Fairbridge Rhodesia children get together still, because they share children's lives that bind them. I went to a Fairbridge reunion once with my wife. I had a memory of being bitten on my face as a five year old. She was sceptical. The Fairbridge girls all remembered that bite!

Now I tell my wife I could be the only Australian Royal Commissioner ever bitten by an African monkey.

Conclusion

The topic of records and recordkeeping is complex. There have been improvements in recordkeeping practices over time. However, we heard from private sessions and public hearings that the current system continues to create difficulties for victims, survivors, advocates, and record holders.

Our work, and the work of previous inquiries, has put pressure on institutions and governments to improve recordkeeping to better protect children in the future. We are aware that institutions and government entities continue to improve systems and archives, and do acknowledge on-going problems such as fees and inconsistent law and practices.

We have also observed governments finding ways to consider how best to tackle the number of records they hold. Responding to significant amounts of archival material, which in one case reported to us stretches over a number of kilometres, is a considerable challenge.

We are aware of the ongoing efforts to use technology to digitalise records and improve access.

When individuals in organisations and institutions proactively maintain good records and recordkeeping practices, in particular those relevant to child sexual abuse, they are supporting child safety in institutions.

It is our hope, and the hopes of very many others, that child safe practices through good records and recordkeeping governance will better protect children from future harm, help those searching for identity, and help those seeking justice for harm done.

Our recommendations will have that aim.

Thank you.