

**Submission on Privacy and Responsible Information Sharing for the WA Public Sector
by the West Australian Stolen Generations Aboriginal Corporation**



We are the West Australian Stolen Generations Aboriginal Corporation. We have approximately 400 members who are predominantly Stolen Generations Survivors and their descendants living in WA.

Our purpose is to support the social and emotional wellbeing of WA individuals and families adversely affected by policies and practices of separating Aboriginal and Torres Strait Islander children from their families, communities, Country and Culture.

We work with Survivors and their descendants who are still looking for their own identity, family, Country and cultural connections. We believe special considerations should be given to Stolen Generations Survivors and descendants and their needs for accessing information about themselves and their family when developing a WA Public sector Privacy and Information Sharing framework. It is essential for supporting people to find their family and identity and redressing the damages done by past government policies. We are happy to be contacted about any of the ideas in this submission and to work with the WA government and public sector in developing better access to records for Stolen Generations Survivors and their descendants.

The Australian Institute of Health and Welfare estimates that 24% of all Aboriginal people in WA born before 1972 are Stolen Generations Survivors, and that 46% of all Aboriginal people in WA born before 1972 are the children of Stolen Generations Survivors (1). All descendants of Stolen Generations Survivors are negatively impacted by not knowing which family, community and Country their parent, grandparent, great grandparent (and so on) were removed from, as a critical part of the own cultural heritage, connections and identity.

When tracing your own family, the process of searching through official records is very difficult, overwhelming, and can be very traumatising. This includes being confronted by offensive and degrading language about yourself, your family and Aboriginal people; it requires reading cruel justifications for separating you from your family; it often contains inaccurate and inconsistent information which can lead to false trails. It is also extremely difficult when information cannot be obtained or has been redacted. It should go without saying that Aboriginal identity should never be redacted from birth or other records (2).

Information including the names and details of 3rd parties have often been redacted from personal and family records people have obtained. Identifying 3rd parties in official records could include identifying

unknown family members and connections, or people who have that information. Many of the Stolen Generations Survivors we support are also Survivors of child sexual abuse at institutions or in foster homes. Names could also identify people who abused children, or other people who could identify them. This is all critical information that people have a right to know and that may assist them in finding their own family, heritage and identity.

Survivors, their descendants and people conducting family history research on their behalf should have better and free access to records without redacted information. This includes personal, administrative, open and restricted government records including police, hospital, Births Deaths and Marriages, and other government records. Reasons should be provided if information is withheld or redacted. People should be able to have a decision to withhold records or redact information reviewed independently and to appeal the decision free of charge. If the proposed Privacy Commissioner is established, this should be part of their role.

We also believe the WA government has a crucial leadership role to play in assisting Stolen Generations Survivors and their descendants to obtain records from private institutions, including churches and former missions, that are necessary for people to trace their family history and can contain other vital unknown information, including where parents and other family members are buried.

In 2018, The Aboriginal & Torres Strait Islander Healing Foundation published *'Bringing Them Home 20 years on: an action plan for healing'* which highlights the need to improve access to records for Stolen Generations Survivors nationally and recommended: "A review of access to records at all levels of government, including states and territories, and non-government agencies is needed and the implementation of the report's recommendations is required (3)."

The process of accessing accurate and thorough family tracing information can be very challenging for experienced researchers, and it can be overwhelming and potentially damaging for Stolen Generations Survivors. We believe the WA government can and needs to provide better access to Stolen Generations Survivors and those assisting them to trace their family history by indexing information to make it more discoverable; to identify gaps across state and territory government and non-government jurisdictions and to negotiate access for the benefit of Stolen Generations Survivors.

We also believe that further resourcing Stolen Generations support services that assist people to address the trauma they experience when searching for their identity, and to engage Aboriginal community knowledge and oral histories to assist in tracing family. It is critical to ensure that Aboriginal people living in regional and remote communities also have the same levels of access to records to trace their heritage and identity. This would be best supported by developing Aboriginal community keeping places of information that provide access to local family and cultural connections to help people discover their personal and cultural identity.

Many of these suggestions are included in the 54 recommendations made by the Bringing Them Home Report in 1997, which was the final report of the National Inquiry into the Separation of Aboriginal & Torres Strait Islander Children from their Families. Many of which looked specifically at access to individual and family records as critical to locate and reunify families, including establishing Joint Records Taskforces. We have included them below for consideration in this submission.

Bringing them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families - April 1997

Human Rights and Equal Opportunity Commission Report

Appendix 9 Recommendations

21 Destruction of records prohibited

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.

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.

Establishment of family tracing and reunion services

30a. That the Council of Australian Governments ensure that Indigenous community-based family tracing and reunion services are funded in all regional centres with a significant Indigenous population and that existing Indigenous community-based services, for example health services, in smaller centres are funded to offer family tracing and reunion assistance and referral.

30b. That the regional services be adequately funded to perform the following functions.

1. Family history research.
2. Family tracing.
3. Support and counselling for clients viewing their personal records.
4. Support and counselling for clients, family members and community members in the reunion process including travel with clients.
5. Establishment and management of a referral network of professional counsellors, psychologists, psychiatrists and others as needed by clients.
6. Advocacy on behalf of individual clients as required and on behalf of clients as a class, for example with record agencies.
7. Outreach and publicity.
8. Research into the history and effects of forcible removal.
9. Indigenous and non-Indigenous community education about the history and effects of forcible removal.
10. Engaging the service of Indigenous experts for provision of genealogical information, traditional healing and escorting and sponsoring those returning to their country of origin.
11. Participation in training of Indigenous people as researchers, archivists, genealogists and counsellors.
12. Participation in national networks and conferences.
13. Effective participation on Record Taskforces.
14. Support of test cases and other efforts to obtain compensation.

References:

1. Australian Institute of Health and Welfare 2018. Aboriginal and Torres Strait Islander Stolen Generations and descendants: numbers, demographic characteristics and selected outcomes. Cat no. IHW 195. Canberra: AIHW.
2. <https://www.abc.net.au/news/2018-05-17/aboriginal-term-deemed-offensive-births-deaths-marriages/9753430>
3. Bringing Them Home 20 years on: an action plan for healing' [Canberra] The Aboriginal & Torres Strait Islander Healing Foundation.
4. National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (Australia). Bringing Them Home : Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. [Sydney] :[Human Rights and Equal Opportunity Commission], 1997.