# Submission to the Committee on the Rights of the Child Day of General Discussion: Children's Rights and Alternative Care 16 - 17 September 2021

A focus on the role of recordkeeping as part of the historical problem in Out-of-Home Care[1], revealing how past frameworks that inflicted harm on individuals were documented, has honed activity within Australia to reconceptualise records as part of the solution. Recordkeeping as part of the solution includes activating records of the past as systemic issues of what to avoid, making records readily available to individuals who have suffered harm as a part of healing and redress, and enabling participation in records being created now as a protection against systemic injustice.

Working collaboratively with a range of advocates who have experienced Out-of-Home Care across different time periods, we acknowledge that their lived experience is central to the reconceptualization that is underway.[2] Their advocacy has led to a range of initiatives, projects and individuals motivated to work, separately and in cooperation, to transform recordkeeping into powerful agents of change, for the lifelong rights of the child. This submission highlights a number of these projects and initiatives.

We are involved in some, supportive of all, and offer these to the Committee on the Rights of the Child as exemplars of how recordkeeping underpins future frameworks for quality systems supporting services for children in Alternative Care.

We are also planning further activities over the coming months including advocacy on these issues to a range of professional and practice audiences, research/practice seminars and a planned day long symposium focussing on child-centric recordkeeping to coincide with International Human Rights Day on December 10. We would be pleased to keep the Committee informed and to open our online events to any interested parties.

## THE CRITICALITY OF RECORDS

The issue of records of children in Out-of-Home Care – their quality, what they contain, how they are managed, who can access them, how available they are – is a consistent theme in all inquiries to review historical systems of child protection and commonplace in inspections of current systems supporting Alternative Care. Quality of services provided can often be deduced from the state of records maintained. Multiple inquiries over decades in Australia demonstrate that disempowered, disconnected children in Alternative Care situations are more vulnerable to abuse and neglect.

Records document actions, embody organisational processes and rules, govern and determine approaches to individuals, exist within networks of information systems which span organisations. For individuals, however, they are essential to ensure connection to identity, family and community. At different points in processes, records can act as surrogates for people during decision making processes. As such, the formation and construction of records, their management over time, and rules imposed over records access, governance and use embodies societal, organisational, professional and personal constructs of identity, power and control.

---

[1] Alternative Care is more commonly referenced as Out-of-Home Care in Australia. In this submission we use the terms interchangeably.
[2] In particular we acknowledge Dr Frank Golding, Dr Jacqueline Wilson, Rhiannon Abeling, Aeden Brittain, Liz Constable, Matt Drever and Ella Roberts.

The broad proposition underlying work to activate records as agents of empowerment places the child at the centre of systems supporting care. Children who are informed about their circumstances in Alternative Care situations are

- Continuously centred in a network of connection to family and community

- Protected through knowledge, information and involvement in how they are represented in systems

- Informed of the nature of records kept about them

- Positioned to participate in decision making that affects them

- Able to effectively challenge, complain or provide alternative interpretations of events and actions.

We know:

- Records are critical to supporting necessary interventions to ensure the safety and wellbeing of children

- Records that accurately and effectively reflect concerns for a child, are critical to assessing and providing the interventions required, when they are required.

- Records are central to enabling good decision making by a child, or on behalf of a child

- Records that reflect the requirements of a child through their own expressed wishes in relation to decisions made about them, can empower children

- Being continuously informed of what is written and recorded about them empowers children (and families) to challenge decisions where needed through complaints, review and monitoring mechanisms

- Access to records now and into the future enables children to make sense of actions undertaken on their behalf

- Records are critical to enabling those detrimentally affected by Care experiences to seek redress

- Records form the basis of external reviews of the effectiveness of systems of Alternative Care. Without good recordkeeping oversight bodies involved with assessing service quality and effectiveness cannot accurately evaluate organisational actions

We know that progress is being made in some areas:

- Greater openness to co-authoring records at the time of service provision is enabling children to mediate language used, expression of their requirements and know what information systems hold about them

- The emergence of apps enabling children to record their own views, reflections and requirements are gradually emerging. Such mechanisms improve children's participation but bring some challenges for appropriate integration into organisational systems and in ensuring sustainability and access over time.

- Lifestory work is increasingly incorporated as a key component of practice, ensuring that children's family and community are adequately documented; their own stories, achievements and life history is being systematically recorded for them (while young); and authored by them as a part of their own documentation of Alternative Care.

We also know that there are systemic barriers to overcome:

- Digital information systems supporting Alternative Care are designed to support organisational requirements as the central driver

- Increased datafication inhibits creation of nuanced, contextualised, narrative assessment focussed on

the situation of an individual child

- Digital information systems prioritise creation of statistical and other reporting requirements rather than being child and care focussed

- Information ecosystems are complex, often involving multiple layers of networked responsibility with distributed, overlapping and dispersed levels of responsibility that create multiple locations of information about a specific child, fragmenting the creation and existence of complete records

- Because of the complexity, reconceptualised systems focussing on the child have failed in the face of implementation challenges, time constraints and resource availability

- Fragmented systems, distributed across layers of service providers, leaves records vulnerable to technology change and obsolescence inhibiting the maintenance of critical recordkeeping resources for the lifetime of the child

- Insufficient attention to recordkeeping as a core constituent of service provision means that organisations, service providers and practitioners undervalue such activities, see them as burdens and fail to resource them properly

- Monitoring and effective oversight is retrospective, lacking real time governance and failing to offer interventions effective to assist children in need.

# WHAT IS HAPPENING IN AUSTRALIA: ADVOCACY, RESEARCH, POLICY AND PRACTICE INITIATIVES

The following illustrate a range of activities exploring how recordkeeping can be reconceptualised to support children in Alternative Care – whether in the past, the present and/or the future.

## A GROWING COMMUNITY OF PRACTICE

A growing community of practice, centering the voices of those with Care Experiences, is being nurtured to guide work in addressing the importance of recordkeeping as a key element of improving the quality of systems supporting Alternative Care. This community consists of a range of people with various life experience of Alternative Care, advocacy organisations, professionals (including lawyers, social workers, regulators, information system designers) and researchers. Each have their own defined objectives and are coming together to develop and pursue multiple avenues for identifying issues, advocating for change and collaborating on specific projects to further reform.

Brought together by the **Setting the Record Straight for the Rights of the Child Initiative and Summit** [3] the community of practice advocates for the recordkeeping rights of those who experience childhood Out-of-Home Care. It was formed in partnership with key community advocacy organisations – Care Leavers Australasia Network (CLAN), the Child Migrants Trust, Connecting Home, and the CREATE Foundation – and allied research units at Monash University, Federation University Australia and the University of Melbourne. It brought community advocates together with recordkeeping researchers and practitioners to explore how to transform recordkeeping and archiving to better respect, represent and enact multiple rights in records. The Initiative convened a National Summit in Melbourne on the 8-9 May 2017 to build a collaborative community and develop a strategic plan to address the systemic and enduring challenges of Care recordkeeping and archiving systems.

➢ See http://rights-records.it.monash.edu.au for more information.

---

[3] ARC Future Fellowship FT140100073 Connecting the Disconnected: Co-Designing Inclusive Archival and Recordkeeping Systems enabled Associate Professor Joanne Evans to convene the Setting the Record Straight for the Rights of the Child Initiative and co-ordinate the National Summit.

# NATIONAL FRAMEWORK FOR RECORDKEEPING FOR CHILDHOOD OUT-OF-HOME CARE.

A key outcome from the Setting the Record Straight for the Rights of the Child Summit in May 2017 was the conceptualisation of a **National Framework for Recordkeeping for Childhood Out-of-Home Care.** As an accompaniment to the *National Framework for Protecting Australia's Children*, it embraces the extension of the recordkeeping principles for child safety and wellbeing from the Royal Commission into Institutional Responses to Child Sexual Abuse to address the full gamut of identity, memory and accountability needs for all those who experience childhood Out-of-Home Care – past, present and future. It incorporates:

- **Recordkeeping Principles for Child Safe Organisations**, together with the tools, systems, education and training programs to implement and adequately monitor them.
- A unifying **Rights Based Charter for Childhood Recordkeeping**, to recognise the agency of children in relation to recordkeeping, in alignment with the UN Convention on the Rights of the Child, and the active participation of children in decision making that impacts on their lives in Australia's National Standards for Out-of-Home Care.
- An **Independent Recordkeeping and Rights of the Child Advocate** with development, auditing and oversight responsibilities, and to oversee the design and implementation of a national cross-jurisdictional, cross-sectoral legislative and policy framework to promote efficient and accountable recordkeeping and archiving by all agencies involved in child protection and Out-of-Home Care services.
- Independent **Lifelong Living Archives** as safe, secure and accessible keeping places for childhood records, populated by children and young people themselves and by their care givers, case workers, teachers, health professionals, and others involved in their parenting. It would support a child's identity, memory and time in Out-of-Home Care and be accessible throughout his or her life.
- A **Network Governance Model** to define the ways in which the different components integrate to form an interoperable and accountable infrastructure.

➤ See https://rights-records.it.monash.edu/wp-content/uploads/2018/02/Strategic_Plan_Final_Amended.pdf for more information.

# RECORDKEEPING PRINCIPLES FOR CHILD SAFE ORGANISATIONS

A key finding of the Australian Royal Commission into Institutional Responses to Child Sexual Abuse is the importance of good recordkeeping in enabling institutions to be child safe through realising the rights of children. The final report acknowledges that the creation and management of accurate and detailed records is fundamental to children's rights to identity, nationality, name and family relations, and that the rights of children to be protected from all forms of physical, mental and sexual abuse are promoted by good records and recordkeeping. The Royal Commission has explicitly recognised the significant, elemental role of comprehensive records and high-quality recordkeeping systems in good governance, transparency and accountability, particularly in Out-of-Home Care, noting that:

> They help promote consistency of practice, retention of organisational memory and institutional accountability. They also help institutions to maintain descriptions of their processes, decisions, activities and responses to critical incidents, providing a level of transparency and evidence of practices that can be relied on in the future (Volume 8, p. 38).

Recommendation 8.4 articulates five high level principles for recordkeeping in institutions engaged in child-related work to support the implementation and realisation of their Child Safe Standards, with direct linkage to Standard 1 and the embedding of child safety and wellbeing in institutional leadership, governance and culture.

➤ See Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final Report: Volume 8 Recordkeeping and information sharing* (Vol. 8). Attorney-General's Department, Australian Government. https://www.childabuseroyalcommission.gov.au/recordkeeping-and-information-sharing .

## CHARTER OF LIFELONG RIGHTS IN CHILDHOOD RECORDKEEPING IN OUT-OF-HOME CARE

Conceptualised at the Setting the Record Straight Summit and led by Professor Sue McKemmish as a key outcome of the ARC funded Rights in Records by Design project[4], the Charter is a world first to facilitate systems transformations and accountability to the principles of provision, protection and participation in the best interests of the child enshrined in the United Nations Convention on the Rights of the Child. The Charter aims to strengthen the voices of children in Care and Care leavers in decision-making that affects them, and in recordkeeping itself. It acknowledges that Care-experienced individuals can speak with direct authority on the ways in which recordkeeping affects the exercise of their rights leading up to, during, and after Care.

Human rights, Indigenous human rights linked to Indigenous sovereignty[5], and transformative justice form the broader context of the Charter. Framed by identity, memory, accountability, and participatory rights, the recordkeeping rights specified in the Charter relate to participation, access, disclosure, and privacy. The Charter is designed to apply while a child or young person is in Care and throughout their life, supporting child safety principles, the wellbeing of children and young people in Care, the cultural safety of Indigenous Australian children in Care, and meeting the lifelong information needs of Care leavers, including historical justice and redress.

An Implementation Toolkit for organisations seeking to implement the Charter into their practice is also in development.

➤ See https://rights-records.it.monash.edu/research-development-agenda/rights-in-records-by-design/recordkeeping-rights-charter

## PROTOTYPE OF LIFE LONG LIVING ARCHIVES

The ARC funding of the Rights in Records by Design Project and Connecting the Disconnected Future Fellowship has also enabled the development of a technical demonstrator of the Lifelong Living Archives component of the National Framework for Recordkeeping for Childhood Out-of-Home Care. MySSy has been developed through a series of co-design workshops with a small team of Care leaver advocates as a web app front end to a records registry – a gateway to a Care experienced person's distributed records network, that places personal information and access to records under their control. Fostering voice, agency and equity in the research and design processes have also been an important outcome from this work.

➤ See https://rirservermonash.gitlab.io/landing and Rolan, G., Evans, J., Abeling, R., Brittain, A., Constable, E., Kelemen, M., & Roberts, E. (2019). Voice, agency, and equity: Deep community collaboration in record-keeping research. Information Research, 24(3). http://informationr.net/ir/24-3/rails/rails1803.html

---

[4] Rights in Records by Design is funded by ARC Discovery Grant DP170100198. Chief Investigators are Associate Professor Joanne Evans (Monash University), Associate Professor Jacqueline Wilson (Federation University Australia), Professor Sue McKemmish (Monash University), Associate Professor Philip Mendes (Monash University), Professor Keir Reeves (Federation University Australia), and Dr Jane Bone (Monash University)

[5] United Nations General Assembly, United Nations Convention on the Rights of the Child; United Nations Commission on Human Rights (UNCHR), United Nations Declaration on the Rights of indigenous peoples (UNDRIP)

## CONNECTING CONTEMPORARY AND HISTORICAL PRACTICE

Researchers at Federation University Australia have been responsible for a third strand of the Rights in Records by Design exploring a restorative and proactive role for records and recordkeeping in historical justice. This project has supported and encouraged contemporary leaders and practitioners to consider transformative recordkeeping practice in the context of the long historical legacies of institutionalisation. By focussing on historical experiences and cultures of institutionalisation in a particular Australian community sector organisation that has been in continuous operation for over 150 years, this modern entity has developed new strategic and practical approaches to recordkeeping, access and engagement based on principles of the Lifelong Recordkeeping Rights Charter. This work continues independently into 2021, with the aim of being shared broadly across Australian and other jurisdictions.

## FIND & CONNECT WEB RESOURCE

A foundational project, The Find & Connect Web Resource brings together historical resources relating to institutional 'care' in Australia. It assists people to

- read information about and view images of children's Homes
- get help to find records about childhoods in 'care'
- connect with support groups and services across Australia

Developed initially in 2011 with funding from the Australian Government, this resource was created by a team of historians, archivists and social workers from the University of Melbourne and Australian Catholic University. The web resource is dynamic and continues to be updated with information about organisations involved in providing Out-of-Home Care. The project does not provide access to records, but points information seekers to resources that assist in finding and accessing records. The project continues to be supported by Australian government funding, and also supports organisations to digitise, index and make their records available.

As part of the broader Find & Connect Initiative, the Australian Government has also funded a range of Records Access support services to assist people in finding records, in understanding the organisational and social constructs from which the records were created, and in providing trauma informed support in the face of confronting and often offensive representations in records.

➢ See https://www.findandconnect.gov.au

## FOSTERING INTERNATIONAL NETWORKS

The experience of reconceptualising recordkeeping for Out-of-Home Care in Australia is of interest to international communities and colleagues. We are seeking to actively support international networking and collaboration with those investigating these issues in other jurisdictions. Notable connections include:

- University College London's collaborative MIRRA (Memory – Identity – Rights in Records – Access research project which has worked in partnership with community Care Leaver advocacy organisations to develop 'a better understanding of information rights in child social care contexts in England, in particular, around privacy, confidentiality and access to records'. MIRRA has focused on understanding how records are created, conceptualised and accessed by the people who use them, along with bringing the experiences and needs of care-experienced people to the fore. MIRRA+ builds on the initial project findings by designing a specification for a participatory recordkeeping system. See https://blogs.ucl.ac.uk/mirra/about/.

- The Global Record Access Information Exchange: Childhood Care Records brings together

practitioners, researchers and Care Experienced people from Scotland, UK and Australia to build an active, participant focussed network. The network is open to all and invites participation 'in the global movement to radicalise childhood care records; how they are written, who by, the language that is used, access and support to do so.' After a successful first meeting in April 2021, a follow up is planned for International Day for Universal Access to Information on the 28 September. See https://socialworkscotland.org/event/global-record-access-information-exchange-childhood-care-records/

# NEW RECORDKEEPING RESEARCH PROJECTS

Further information about the research collaborations supporting the above activities are accessible at https://rights-records.it.monash.edu/research-development-agenda/ with publications relevant to the Rights in Records by Design Project available at https://rightsinrecordsbydesign.github.io/publications/.

In addition, recently initiated research projects include:

## REAL-TIME RIGHTS-BASED RECORDKEEPING GOVERNANCE FOR CHILDHOOD OUT-OF-HOME CARE (2021 – 2023)[6]

This interdisciplinary research project, funded by an ARC Discovery Grant, aims to explore how records co-creation can be conceptualised in child protection and information law and overseen dynamically through a digitally enabled, child-centred and rights-based advocacy and regulatory framework. This research seeks to develop participatory information governance as a new theoretical foundation for proactive recordkeeping and rights advocacy for childhood Out-of-Home Care and better ensure that the systems to protect children from abuse and neglect do not themselves cause harm. Improved transparency, accountability, efficiency and access to justice are anticipated benefits from this legal, recordkeeping and information infrastructure design research.

## RECORDKEEPING FRAMEWORKS, PROTOCOLS AND MODELS FOR TRANSFORMATIVE PARTICIPATORY PRACTICE: VOICE, TREATY, TRUTH TELLING (2021-2022)

A broader First Nations-led project focussing specifically on First Nations Sovereignty and Data Sovereignty this project will build on the Charter of Lifelong Rights in Childhood Recordkeeping in Out-of-Home Care to Research, develop and promulgate guidelines for the translation of the Charter into transformative, participatory recordkeeping and archiving practice in the Aboriginal and Torres Strait Islander Out-of- Home Care sector, working with service provider and regulatory agencies. It has been funded by Monash University's Faculty of IT Whyte Fund.


Prepared by

Associate Professor Joanne Evans and Barbara Reed from Department of Human Centred Computing, Monash University, in conjunction with Dr David McGinniss (AshTree Projects).


Contact: Associate Professor Joanne Evans
Department of Human Centred Computing
Faculty of Information Technology
Monash University
Email: joanne.evans@monash.edu

---

[6] *Real-Time Rights-Based Recordkeeping Governance for Childhood Out-Of-Home Care* is funded by ARC Discovery Grant DP200100017. Chief Investigators are Associate Professor Joanne Evans, Professor Moira Paterson, Associate Professor Melissa Castan (Monash University) and Professor Elizabeth Shepherd (University College London)