

**CHILD PROTECTION HYPOTHETICAL CASE STUDIES FOR A VIRTUAL  
ARCHIVE: Professional perspectives versus the lived experience and expertise of  
care leavers in Victoria, Australia**

**ABSTRACT**

For children in out of home care (OOHC) and adults who experienced OOHC as children, the records compiled by care workers, social workers and other relevant personnel present multiple ongoing problems. The records often embody deeply contested narratives that may include distortions and misinterpretations of facts, judgemental inferences, moralistic attitudes and other problematic aspects that can leave the care leaver at best ill-served and at worst profoundly distressed and traumatised. This article, an auto-ethnographic collaboration between a social work professional and two care leavers, aims to address these issues by constructing a ‘virtual archive’ consisting of several hypothetical records compiled in the style typically employed by case workers, which are then critiqued by the care leavers. In each case the record is found to have significant shortcomings in terms of what is included or omitted, the tone, and implied judgements. The article concludes with a discussion that identifies a number of thematic issues and pitfalls intrinsic to the task of recordkeeping in the OOHC context, and makes recommendations aimed at achieving inclusive, rights-based processes and procedures in the creation and maintenance of records.

## **Introduction**

Upwards of half a million Australians have spent all or a significant part of their childhoods in one or another forms of out-of-home care (OOHC), with the number of children currently in that situation continuing to grow (Senate Community Affairs References Committee, 2004; Goddard et al., 2013; Hoyle et al., 2018; Wilson et al., 2019). These figures are broadly in keeping with equivalent OOHC statistics internationally (Goddard et al., 2013; Hoyle et al., 2018; Wilson et al., 2019).

Many of these children experienced difficult life circumstances including placement instability, overt abuse by carers, disconnection from school and other mainstream developmental opportunities, and estrangement from family (Fernandez et al., 2016). Recordkeeping practices arguably play a key role for care experienced children and young people – varying according to their discrete developmental stages and needs - in shaping their sense of identity and connection with family and culture. This includes at the very least accurate chronological information on their time in OOHC; copies of case plan and review reports; health, education and relationships records including birth certificates and immunisation records; information on family and community links; and details of key events (Goddard et al., 2013; Rolan et al., 2019).

According to Hoyle et al. (2018, p.2)

[R]ecords are a critical issue, not only for the safeguarding of children and young people who are currently looked after, but for care-experienced people throughout their lives. The ways in which

social work records are made and kept have long-term significance for the subjects of those records, especially care-leavers, for whom they may represent the equivalent of childhood memories.

Recordkeeping standards for Australian children in OOHC have arguably improved in recent years. There is some evidence of a shift from a purely bureaucratic and paternalistic approach to a more participatory practice based on collaboration between workers and children and young people in OOHC. Additionally, procedures have been introduced to assist care leavers to access records (Goddard et al., 2013; Humphreys et al., 2014). Nevertheless, there is still evidence that care leavers may be denied access to their care records, and that recordkeeping practices continue to prioritize the rights of services and governments ahead of the needs of children and young people in OOHC or those who have left care (Nyland, 2016; Rolan et al., 2019). In fact, a wide gulf separates care leavers (sometimes called care experienced people) and child protection professionals on questions about records of care. They are divided on what constitutes appropriate and relevant content in these records; how they are used in the course of the child's time in care and beyond; what access those in care should have to their files during and afterwards; and what role, if any, those in care should have in the creation and maintenance of the files (Golding, 2016; Greenwood et al., 2019). These divisions are centrally products of, and directly reflect, explicit or implicit imbalances of power inherent in the circumstances contributing to the creation of those archival texts: expressions of privilege vs lack of privilege and the tacit oppression inherent in disparities of privilege (Golding, 2016), custodianship vs those in custody, supervising adult vs subjugated child. Given the potentially adversarial nature of both process and

product, and the consequent complexities presented by the issues involved, it is crucial that an optimally constructive approach be taken to the problem.

The paper was funded by an Australian Research Council Discovery Project called Rights in Records by Design (Rolan et al., 2019), which researches aspects of archives and records for children who experience OOHC. This research is expected to support children experiencing family dislocation through efficient, effective, and responsive recordkeeping systems to ensure the highest standards and continuity of care. The paper contributes for the first time a ‘virtual archive’ demonstrating the competing narratives and tensions that arise in recordkeeping for children in OOHC.

The case studies have been synthesised from the collective professional experiences of a worker in the field from 1987-88 and 1992-95 (since then a Social Work researcher and educator), and two former wards of the State of Victoria in Australia (called ‘looked after children’ in the UK), and are written up in the style typical of such records in terms of content and implicit judgements as to what information is deemed relevant. They also reflect the policy changes enacted in Victorian child welfare legislation in the period between 1970 and the 1990s (Cummins et al., 2012).

The authors’ collective approach reflects a new trend in the field whereby ‘scholars have begun working collaboratively, considering how it is that narratives of self tangle through – and butt up against – one another, creating new meanings in the process’ (Boon et al., 2018, p. 7). The result has been likened ‘to a form of ensemble performance ... [in which] the combination of multiple voices to interrogate a social phenomenon creates a unique synergy and harmony that autoethnographers cannot attain in isolation’ (Boon et

al., 2018, p. 7). Importantly, by drawing on the authors' lived and professional experience to examine hypothetical case studies, the work avoids the invasion of privacy implicit in research involving access to and utilisation of the actual files of real individuals. This aspect is itself a significant point of contention for care leavers (Wilson and Golding, 2016), and accords with the need for care leavers to have substantive agency in research in the field (Hoyle et al., 2018).

The disparity between the responses and recommendations of the care leavers and the professional amply illustrate the problems noted above. In each case, the professional view is seen by care leavers as tending toward unwarranted paternalism and assumptions that discourage the promotion of agency for the subject in the creation of their file and its subsequent uses.

The record of a person's time in care constitutes a life-narrative – or portion thereof – and thus needs to reflect not merely the typical bare-bones bureaucratic and depersonalising style of information typically regarded as necessary for professionals to work with the child, but also explicit acknowledgement of the child's subjective experiences, and deeper and more empathic insight into what information the child may reasonably need and expect to access during and after their transition from care.

This paper serves, then, as a beginning to the much-needed project upon which the OOH sector and archivists are currently embarking: finding effective ways in which the deficiencies and calumnies inflicted upon children in care through past record-keeping practices may be prevented in the future.

## Methodological process

The six case studies that follow were developed collaboratively by the three authors. The first author, a former child protection worker, drafted the studies as typical of the cases he worked on during that period in terms of the content that characteristically would have appeared in formal reports for case planning meetings and children's court hearings. He then presented a dispassionate record-keeping perspective based on his distant memory of the practice context of that period. Recordkeeping may fulfil a wide range of necessary agency functions from comprehensively monitoring a child's development within the core Looking After Children domains to completing practical everyday tasks such as organizing respite care or contact with a birth parent. Nevertheless, the language used by the worker arguably reflects both the legal framework and professional practices of the time. The children and families subjected to child protection intervention were arguably pathologized in order to fit the allegations of child abuse or neglect within the parameters of the *Social Welfare Act* 1970 and later the *Children and Young Persons Act* 1989 (Sheehan, 2001; Cummins et al., 2012). Child protection work occurred within an adversarial legal system, and workers sought to prove their concerns within that legal context. Author one then passed the cases onto authors two and three, both former wards of the state in Victoria, to reflect on the cases from a care leaver point of view. Consequently, each case study includes a professional perspective (reflecting the views of that time) and a contemporary care leaver perspective (presenting a hypothetical voice of the subject of the record) pertaining to recordkeeping practices.

The paper thus represents an exercise in collaborative autoethnographic methodology, whereby the authors have immersed themselves in the archival environment and drawn upon their respective experiences. The autoethnographic approach constitutes an extension of the qualitative description sought by the conventional ethnographic participant-observer, who nevertheless remains a ‘relative outsider to the lifeworld of one’s interlocutors’ (Moors, 2017). As anthropologist Annelies Moors puts it,

[I]f one starts off as relatively close to, or part of, a particular lifeworld, and already has acquired forms of experiential, embodied knowledge, one has a different point of departure. Then one moves from participating to reflecting upon one’s experiences (Moors, 2017, pp. 387-88).

An obvious limitation is that the studies do not include the perspective of the biological parent or other family members such as siblings. It should also be noted that Victorian recordkeeping practices may differ substantially both in terms of legislation and implementation from those employed in other international jurisdictions (Goddard et al., 2013).

## **Six hypothetical case studies from Victoria, Australia**

### **1) Bob Weekes**

#### **Summary of case notes**

Bob was born in Melbourne in 1972. His father, who was a criminal and illegal immigrant later deported back to Italy, left when he was a baby, and his mother Jenny, who had a long history of mental illness, struggled to care for him. Consequently, he spent time in and out of a number of babies' homes and residential care facilities (sometimes returning to his mother's care) before being placed permanently in a Family Group Home (FGH) in 1980 alongside his older brother, Brian. He remained there until 1987 when he was removed following serious threats and violence (involving use of a baseball bat) towards his cottage home mother who was heartbroken at the breakdown of the placement. Brian remained in the FGH, and indicated he did not wish to have further contact with Bob until he improved his behaviour. Bob was then placed briefly in the Turana Boys Home before residing in a further residential care unit. It should be noted that 'care' facilities such as Turana, Baltara Reception Centre and Winlaton Girls' Training Centre were high-security institutions and thus effectively constituted prisons. Many young people experienced significant abuse whilst living in these centres (Royal Commission into Institutional Responses to Child Sexual Abuse, hereafter RCIRCSA, Case Study No. 30, 2016).



Bob has had occasional contact with his mother, but does not have a close relationship with her. He also has minimal contact with his grandparents and aunt and uncle who live in the country. He has difficulty making friends with people his own age. He has significant fears about inheriting his mother's mental health problems, and was attending an outreach youth mental health service.

### **Child Protection Worker perspective**

- Bob should have been entitled to know the general details of his family background and history from a young age. At 15 years of age, a full understanding of family relationships and connections would have been critical for the development of his personal identity.
- As for the reasons he came into care, it may have been traumatic for him to know the full details until he was mature enough to cope with the full story, although given that he was already 8 years old when placed in permanent care, he may have recalled some of the details himself.
- I would have suggested giving Bob the opportunity at the age of 18 to ask whatever questions he wished concerning his mother's life and experiences.
- I would have strongly recommended that Bob have ongoing counselling especially around issues of violence and his fears about his mother's mental health condition.

## **Bob's perspective**

*- I have a right to know the truth. I want to know everything, the good and the bad. I can handle it. Of course I might need support, but I'm not stupid! Here are some of the things I'd like to know:*

*- Why did my father leave my mother and Brian and me?*

*- Did anyone from the child welfare bother to find out what my Family Group Home mother was doing to me that made me so angry and even violent? Was she allowed to have other foster kids after me?*

*- Where was Brian while I was in Turana and that other place? Why couldn't he look after me? Why didn't they tell me where he was after he was released from the welfare?*

*- I'd like to know what Brian thought of everything that was going on when we were split up. He would have spoken up for me I reckon.*

*- When I left the system I wanted to get together with Brian, my mother and her folk up in the country. But the bosses didn't give me their addresses (except my mum who wasn't well). I was on my own.*

## **2) Glenda Walls**

### **Summary of case notes**

Glenda was born in Melbourne in 1974. She lived with her mother Debbie, her siblings, and a man she called 'Uncle David' for most of her childhood. Debbie, who had a mild intellectual disability and was a heavy drinker, was only 16 when Glenda was born. She also had two other daughters younger than Glenda who seem also to have some form of cognitive impairment. Glenda in contrast had an average IQ for her age.

At the age of 13, Glenda was removed and placed on a custody order due to sexual abuse by her uncle. He was charged and convicted, and served a two-year jail term. Glenda was initially placed in Friendship House (FH), but was frustrated and angry there as she felt she was being punished for something bad that was done to her. As a result, the female FH Director threatened to place her in Winlaton which was known to be a home for rough and dangerous girls. Glenda was terrified by this threat.

During her time at FH, Glenda was visited by a former sports teacher who supported young women in trouble. He arranged for Glenda to leave FH, and to stay with his older sister. Community Services Victoria then agreed to rescind her custody order. Glenda was subsequently able to return to school, and later commenced a professional career in the fashion industry.

### **Child Protection Worker perspective**

- Given that Glenda was 13 when she entered care, I would have thought she should have been given access at that time to the full details of her family background to help inform her identity, and the reasons for her entry into care including the rationale as to why she could not remain at home given her abusive uncle was in prison.

### **Glenda's perspective**

- *It says on my file that I had an average IQ but my mother and my younger sisters were below that. I want to know what any of that crap had to do with my situation. We were all in turmoil at the time. I wonder why they put those labels on us.*
- *I hated it at FH, I was still shocked by being raped by my uncle and I missed my family. Here I was a teenager sexually abused by my uncle being locked up as if I was the criminal. Who could blame me for being 'rebellious'? And then the FH Director threatened to send me to Winlaton. I knew what Winnie was like—it was a prison. What sort of welfare system locks up the victim for being abused—and then threatens them with even more high security confinement if they muck up?*

### **3) Warren Sidehead**

#### **Summary of case notes**

Warren was born in Melbourne in 1979. His mother Raelene is Indigenous Australian but did not grow up with her Indigenous family which is well known to child protection, as Raelene and most of her siblings grew up in state care. Raelene was only 17 when Warren was born. His father, who was not Indigenous, died of a drug overdose when he was seven. Warren then lived with his mother, stepfather George and younger half-sibling.

At the age of 12, Warren was removed and placed on a custody order due to heightened conflict with his stepfather including a number of instances of physical and verbal abuse. Warren was a likeable boy with lots of friends, and would regularly roam the streets at night in an attempt to avoid contact with his stepfather. Raelene suffered from depression, and had a number of suicide attempts which meant that much of the parenting responsibility was left to George.

After entering care, Warren became involved in criminal activities including stealing motor cars with a group of boys he had met in his residential care unit. By his late teens, he was serving a long-term custodial sentence in the Youth Justice unit.

### **Child Protection Worker perspective**

- Given that Warren was 12 years old when he entered care, I would have thought he should have been given access at that time to the full details of his family background, and the reasons for his entry into care. This would have included connections to his mother's family to help inform his cultural identity.
- Additionally, I would have expected the case worker to help Warren make contact with his Indigenous family and community when he was discharged from the Youth Justice unit.

### **Warren's perspective**

- *I reckon the system picked on me because I'm Indigenous, and especially because my mother and her family were taken away from their parents too.*
- *Whenever there's trouble, they say, 'Oh, we know that lot. They'll never amount to nothing.'*
- *I don't know what they're looking to do to us mob. Sometimes I think they want us to be like white kids. Don't white kids fight with their stepdads too?*
- *Half the kids I knocked around with on the streets were white but we're the ones that get put away.*

*-Sometimes they just lock us all up together so we all get a bad name. All the bosses are white so you can imagine how things worked in there.*

*-They don't teach you nothing, just toss you out when you're old enough. It's funny isn't it, they lock you up for being on the streets and then, when it's time, they put you back out there on the streets.*

*-It's like a factory for trouble in there. They put you inside, you learn a few tricks from the others, how to survive, how to get by, and when you're finally on the outside you're ready to be locked up again. What a life, eh!*

*-Anyway, no thanks to the Welfare people, I've got back in contact with my mother and brother, and we get along fine.*

#### **4) Peter and Nikki Vella**

##### **Summary of case notes**

Peter was born in Malta in 1979 and his sister Nikki in 1981. As toddlers, they were brought to Melbourne by their parents, Stella and Mark, and grandfather Matthias. The father deserted the family within six months of arrival. Three years later, Stella took off with another man. Grandfather did his best for a few months, but neighbours complained to the police that they were worried about the children living with an old man. Police arranged for Peter and Nikki to be taken to the Allambie Reception Centre pending court orders. Within days, Peter was involved in a number of fights including one with a staff

member. He reported that Nikki had been bullied and then sexually assaulted at Allambie. There was no formal investigation. Peter and Nikki absconded together. After being apprehended Peter was sent to the secure wing at Turana under a care and protection order while Nikki was returned to Allambie pending a more permanent placement. Two months later, Nikki was sent to a foster family in Frankston in outer Melbourne. They reported she was happy there, but she absconded when she was 17. There is nothing known about her from that time on.

Contact with the grandfather had been intermittent until his death in 1993. In that year, the mother had written to the Department sounding out the prospect of having the children returned to her, but she was informed that the interests of Peter and Nikki were best served by continuing with their current placements. Upon release from Turana at age 18, Peter was not given any information about Nikki, but the Department offered to contact his mother. He declined.

As a young man, Peter spent time in gaol for damaging public property, resisting arrest, and assaulting a police officer. A decade later, he revealed to an inquiry that a staff member and other trainees in Turana had sexually assaulted him a number of times. There are no records to substantiate his claim—and the staff member has since retired.

### **Child Protection Worker perspective**

- Peter and Nikki should have been given the opportunity to discuss why they had been separated.



- They should have been told that their mother had asked for their return and the reasons for refusal. As adolescents, forming links with their mother and other family members would have been valuable for developing their personal identity.
- It is difficult to know what could have been done to help Peter reconnect with Nikki since there is nothing on file about her after she absconded.
- A better effort could have been made to connect Peter with his mother.
- It's to be hoped that by giving evidence to the commission of inquiry and being told they believed him that he has been able to find closure.

### **Peter's perspective**

*-I have always been very angry at the way we were treated as kids. I blame my parents for getting us into a mess in the first place, but I can't forgive the system for breaking up my sister and me. We were supposed to be better off in their care, not worse off.*

*-A few years ago I applied for my records and my sister's too. I got most of mine—not that there was much there—but they wouldn't let me see my sister's. It pissed me off! I wanted to see if there were any clues as to her whereabouts. I still miss her. Always will.*

*-I worry about whether my criminal record has stopped me getting some of the jobs I've applied for over the years. I done the crime and done the time years ago, but it's still hanging over my head. I did a stupid thing hitting that copper, but I wish I'd hit him*

*harder. I don't have any time for coppers. Can't trust them. That bastard told the court I'd been before the children's court when I was a teenager and that went against me. He didn't bother to tell the magistrate I ran away with my little sister to protect her against what was happening to her in Allambie. They did nothing at the time, and there's nothing in my file except that we absconded. The same at Turana. I told the boss's off-sider what was going on, but I doubt he ever wrote it down at the time. If he did a report, it's vanished now.*

## **5) Rosie Jones**

### **Summary of case notes**

Rosie was born in Melbourne in 1988. She lived with her mother Jenny and stepfather James until she was four years old. Jenny came from a middle class family, but did not get on with her parents or younger siblings. She had been in trouble with the police when she was in her teens, and spent time in state care and later in youth refuges. She gave birth to Rosie when she was 17 years old. The father is not known, but was suspected of being an inmate of Pentridge, a former high security gaol, whom Jenny had corresponded with whilst in care. James is a violent man who has spent time in both youth and adult

prison for drug dealing, theft and violence. He and Jenny lived in a series of homeless shelters with Rosie.

At 4 years of age, Rosie was removed and placed on a custody order due to the ongoing violence between her mother and stepfather. Jenny had refused to allow her family to see Rosie until then, but following the court order, her older sister Miranda who is unmarried, agreed to care for Rosie.

Rosie spent the remainder of her childhood with Miranda, and is now married with three children of her own. She had no further contact with Jenny who died in a horrific car accident shortly after she entered care that was widely reported in the daily newspapers.

### **Child Protection Worker perspective**

- Rosie should have been entitled to know the general details of her family background and history from the time she entered care.
- As for the reasons she came into care and the details of her mother's passing, it may have been traumatic for her to know the full story until she was mature enough to cope with the full story.
- I would have suggested giving Rosie the opportunity at the age of 18 to ask whatever questions she wished concerning her mother's life and experiences to help inform her own identity.
- Placement with close family is usually the best outcome possible when parents are not available, so it was reasonable for the department to do no more than monitor

from a distance sufficient to ensure Rosie's wellbeing. With minimal intervention, Rosie's aunt was able to make decisions as to what is best for the child given that she was effectively *in loco parentis*.

### **Rosie's perspective**

*-I had a happy childhood with Auntie Miranda. She looked after me pretty well, but I always had questions in my head. Auntie was a bit wary whenever I asked her about my mum. I suppose she was being protective. That's why I want the full record, unredacted, of all the events that led me to being made a state ward, and I want my mother's file too. Auntie told me she was in trouble with the police when she was young, but I want to know what sort of trouble.*

*-The Department says my father is 'not known'. What does that mean exactly? I want to know more about that. Can anyone help me?*

*-Are there any documents outside the welfare system that shed light on my mother's life like the inquest into her death?*

## **6) Jane Browning**

### **Summary of case notes**

Jane was born in Melbourne in 1990. Her mother Debbie Browning, who was 29 years old, had a long history of poor mental health accompanied by illicit drug use, transience,

and involvement in street sex work. She had herself spent time in state care as an adolescent due to conflict with her parents, and possible sexual abuse by her alcoholic father. Her previous three children now aged 11, 9 and 7 had been removed from her care about five years ago, and lived permanently with her former husband via a Family Court order. She did not have any contact with them, and was barred via an intervention order from making contact. Child protection were notified of concerns a month prior to Jane's birth related to Debbie's drug use, and her refusal to seek medical treatment regarding her pregnancy.

On her birth, Jane and his mother were placed together in a Mother-Baby Unit in a psychiatric hospital, but this plan did not work as Debbie was said to be hostile and aggressive towards the staff, other patients and Jane, and unable to care for her baby. She believed Jane was 'the devil', and was diagnosed as being in a psychotic state which took another six months to improve. Consequently, child protection took out a child protection application when Jane was 3 weeks old, and she was placed in foster care. Debbie's elderly mother and two older sisters were for a range of reasons not able to take responsibility for her care. Eventually, she was placed on a Guardianship Order, and remained with her foster parents throughout her childhood.

During her childhood, Jane had regular contact with Debbie and her partner John, also a long-time heroin user, under supervision. Debbie claimed John was Jane's father, but there was no formal evidence to support this assertion, and it could have been one of Debbie's clients. No DNA testing was ever undertaken. Debbie and John both died of drug overdoses when Jane was in her teens.

### **Child Protection Worker perspective**

- Jane should have been entitled to know the general details of her family background and history from a young age.
- As for the reasons she came into care, it may have been traumatic for her to know the full details until she was mature enough to cope with the full story.
- I would have suggested giving Jane the opportunity at the age of 18 to ask whatever questions she wished concerning her mother's life and experiences to assist with the development of her own identity.

### **Jane's perspective**

- *'General details of my family background and history' would not be enough for me. I would want to know whether there was anything more recorded (and, if not, why not):*
- *About my mother's experience with the welfare system when she was an adolescent. Why would I have had to wait until I was 18 to ask questions about her life and experiences?*
- *Whether, when it was alleged my mother thought I was 'the devil', was that a one-off comment. What condition was she in when she made that statement? Did anyone check whether that was her final position?*
- *There was no 'formal evidence' to support my mother's claim that her partner John was my father, but did anyone do anything to check further?*

*Why wasn't I told at the time to allow me to talk to them about it?*

*- Who my father was and why didn't I have contact with him*

*- Whether my mother's former husband was approached to take care of me*

*- About my brothers and sisters (my mother's 'three previous children')*

*- The 'range of reasons' why my grandmother and aunties weren't able to look after me and whether they had contact with me subsequently*

*- Did the welfare system have any photos of my mother and brothers and sisters?*

## **Discussion**

The auto-ethnographic methodology adopted in this paper provides insight into the nature of the gulf between care leavers and child protection professionals on contentious questions about records of care. The unique approach of hypothetical, but characteristic, case notes accompanied by commentaries from both sides of the gulf generates useful analysis without the risk of invasion of privacy implicit in research involving using the files of real individuals.

The hypothetical cases are obviously not representative of all child protection cases in Victoria at that time. Nevertheless, they exemplify some key themes commonly found in the gulf. First, there is a profound dissonance between the purposes of the child protection workers and the records they make and keep and the hopes and aspirations of care leavers in seeking to gain access to those records. Case managers are rightly required

to focus on protecting children from further trauma and assisting in recovery where damage has already been caused. In many instances, this duty is performed under the burden of heavy caseloads and high staff turnovers (McArthur and Thomson, 2012). They may see themselves as advocates for the child, and acting to protect their interests, but there remains an enormous power differential between the workers and the children and families subjected to child protection intervention. In this context, record making is not always a priority. By contrast, care leavers focus on their right to know about their family and cultural identity, and to learn (or to confirm) the circumstances of their removal from their family and their placement in care. In many instances, they hope to find evidence in their records that will support a claim for redress for maltreatment while they were in care (RCIRCSA, Volumes 8, 11 and 12, 2017). For care leavers, archived records represent a repository of hope where answers will be found to questions that have dogged them in adulthood. However, many care leavers are profoundly disappointed, even shocked and sometimes re-traumatised by what they find—or don't find (Golding, 2016; Wilson and Golding, 2016).

This brings us to a second and related theme. When child protection workers wrote the records of their engagement with families and children deemed to be in need of care and protection, they did so with little appreciation of the prospect that at some time in the future, their accumulated assessments, incident reports and other file notes would be able to be accessed by the subjects of these records. In many instances, workers had little or no accountability for what they wrote and recorded. Some care leavers have commented that their records tell them more about the protection worker who wrote a file note than about the child and the family (Golding, 2005, pp. 221-230).



Care leavers have particular concerns about the language they find in their records. Phrases like ‘very substandard family’, ‘multi-problem family’ and ‘people like these’ litter the archives (Community Affairs Legislation Committee, 2004; Wilson and Golding, 2016; RCIRCSA, 2017). Care leavers feel demeaned and insulted by references that reek of the bigotry of class prejudice and low expectations. Workers betray a readiness to objectify children and their parents as if sex work or drug and alcohol use were a unitary defining characteristic of a family. Moreover, care leavers notice that value judgements, once entered into the dossier, become perpetuated, oft repeated, and used to determine decision-making for the duration of their time in care.

There is considerable interest among care leavers in exercising their legislated right to challenge the record where they deem it to be incomplete, inaccurate or misleading. As yet, only a minority of care leavers has taken up this opportunity. It may well be that care leavers recognise that even if the records are amended they will still remain the property of the bureaucracy. So this strategy, which theoretically has potential for creating greater agency among care leavers, remains largely untested.

Some care leaver advocates such as the national peak advocacy group Care Leavers Australasia Network (CLAN), which has produced its own Charter of Rights to Childhood Records (CLAN, 2018), feel that a policy change that carries greater potential for reform lies in winning the contest over ownership of their personal records. Care leavers currently ask records holders for their personal records, naively expecting them to be handed over *in toto*. After all, why would the government want to keep your personal records all these years? What possible use can they make of them after you’ve been out

of their care for decades? They are shocked to be told the records belong to the statutory child protection department. The power imbalance is stark in all but the most straightforward applications for access to records.

There is a conflict of interest inherent in the situation where the agency that makes the records determines who gets access and to what degree. This was illustrated in the Royal Commission which showed survivors that they had records that authorities told them didn't exist. The Royal Commission also reported that on a number of occasions, when it issued orders for records, it received more complete records about individuals than the individual received in response to their own requests (RCIRCSA, Volume 8, p. 98). A possible solution to the access problem is the separation of record makers from record owners so that records are held by an independent authority which makes the decisions about access.

Meanwhile, there is an alternative suggestion that it is possible to assert a moral ownership of personal records as distinct from legal ownership (RCIRCSA, Volume 8, pp. 102-03). While this construct has some merit in principle, it is likely to fail because moral ownership is not a recognised legal concept, and asserting a moral right in the face of opposing legal rights will always be problematic. In a contested situation, the legal power of the records holder would outweigh the moral power of the care leaver subject of records. The Royal Commission concluded that while the notion of moral ownership has some value, 'in legal policy terms, access rights may be best analysed in terms of control of personal information, rather than ownership' (RCIRCSA, Volume 8, p. 103).

It may be preferable to explore a different construct, one which was tentatively mooted in a working paper for the associated Rights in Records by Design project. Sabrina Golds (2018) suggests a model in which care records are held in trust. Trusts are a common legal instrument that acknowledges the dual ownership of property: a trustee legally holds the property on behalf of an owner at equity. In this analogy, the trustee is the maker and holder of the records while the care leaver is the beneficiary. This appears to offer a promising start for a new relationship between otherwise unequal parties. On this basis, when a child's time is up—and they want to reconnect with their families, or to understand the reasons they were separated from them—they ought to be able to say:

*Thank you for being my guardian. I understand it was your duty to act in my best interests as a good parent would; and a central part of that duty was to record the significant events of my life. Now your job is over, I would like you to hand me the records you made for me.*

However, it's not only about who owns the records; it's also about the authorship of the records. The hypothetical case studies demonstrate that case managers who write case notes and child protection workers who interpret them are, alone, not capable of creating a life-narrative that is nuanced, accurate and authentic. At best, case notes, as they are currently created, are just the bare-bones of a narrative regarded as a resource for professionals. But without the child's perspective on their experiences the records will

lack the depth and empathic insight into what information the child may reasonably need during and after their transition from care. Having a child's perspective on the critical events that shape their childhood seems to provide a way towards the ideals established decades ago—the right of all children to have a say in decisions that affect them (United Nations, 1989)—and more recently, the right to have their life story recorded as they grow up to help them recall the people and events that have shaped their lives and to make sense of them (Commonwealth of Australia, 2009).

Additionally, technological advances should enable the development of new systems that facilitate participatory recordkeeping practices in OOHC so that children and their carers/workers can share access to and control of records throughout the care experience and beyond (Rolan et al., 2019).

In its final report, the Royal Commission confirmed that ‘problems with records and recordkeeping practices are not confined to the past. During our inquiry we heard about poor records and recordkeeping practices by contemporary institutions...’ (RCIRCSA, Volume 8, p. 9). This paper has suggested some ways in which professionals in the OOHC sector and archivists working together with care leavers and those in care today may avoid the harmful record-keeping practices of the past.

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