

PROTOCOL

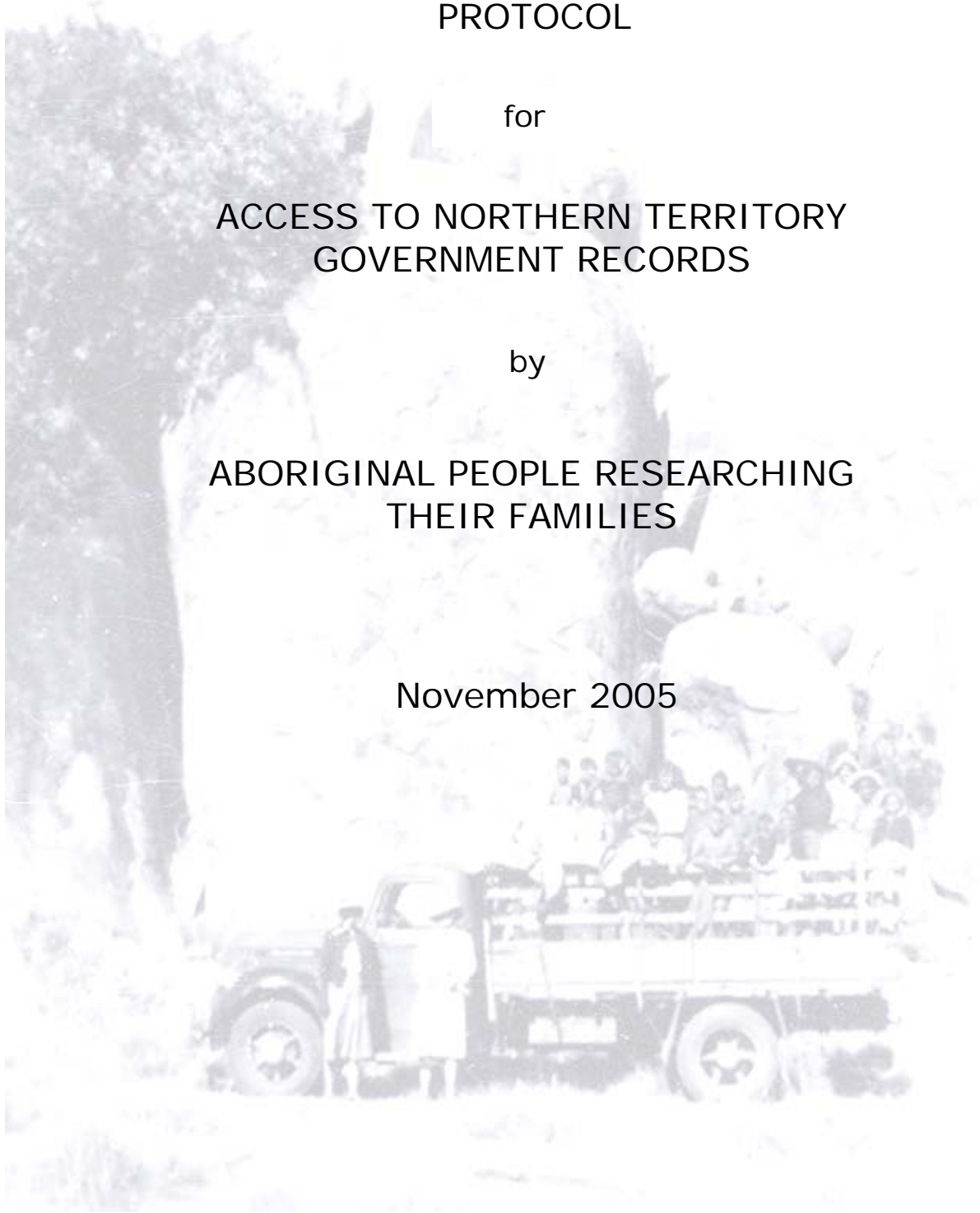
for

ACCESS TO NORTHERN TERRITORY
GOVERNMENT RECORDS

by

ABORIGINAL PEOPLE RESEARCHING
THEIR FAMILIES

November 2005



Northern Territory Government



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1. Introduction

This protocol was originally developed jointly by the Northern Territory Government, Northern Territory Stolen Generations Combined Reference Groups, KARU Aboriginal and Torres Strait Islander Child Care Agency and the Central Australian Aboriginal Child Care Agency (CAACCA) in October 1997.

It was developed in a spirit of cooperation and goodwill, recognising the wish of Northern Territory Aboriginal people affected by past government separation policies to access information about their families. The protocol has been developed to facilitate a pragmatic, efficient and helpful means for Aboriginal people (or their accredited agents) researching their families to access Northern Territory Government records.

The protocol is a whole-of-government effort which establishes a consistent approach to accessing material across all Northern Territory Government agencies. This approach is consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the Human Rights and Equal Opportunity Commission Inquiry into the Separation of Aboriginal and Torres Strait Islander Children From Their Families.

2. Scope

This protocol sets out the arrangements for access by Aboriginal people (or their accredited agents) who need to establish linkages to family and country because of past separation policies, to records held by Northern Territory Government agencies. These include

- those which were created by the Northern Territory Government, and,
- those which were created by the Commonwealth Government but which, following self-government, were transferred to the custody of the Northern Territory Government.

Most Northern Territory Government records of relevance to Stolen Generations research are held at the Northern Territory Archives Service while others are held at the Registry of Births, Deaths and Marriages and various other Northern Territory Government departments and authorities.

3. Background

The Northern Territory was granted self-government in 1978. Prior to that a range of arrangements applied to the administration of the Territory. From 1863 to 1910 the Territory was part of South Australia and the laws of the latter were in force in the NT. In 1911 the Territory was surrendered by South Australia and control was formally passed to the Commonwealth.

Until 1978 the Northern Territory was administered by the Commonwealth.

Policies which resulted in the separation of Aboriginal children from their families were administered by a variety of Commonwealth agencies.

After Northern Territory self-government, arrangements were made to transfer many series of records from the custody of the Commonwealth Government to the Northern Territory. The transferred records related to state-type functions surrendered by the Commonwealth Government to the Northern Territory.

In the Northern Territory, Aboriginal children who were separated from their families in compliance with the Government policies of the time were placed in institutions, adopted to non-

Aboriginal families both within the Northern Territory and interstate, or fostered to non-Aboriginal families for care, training and work.

Many children went to institutions such as the Bungalow in Alice Springs; Kahlin Compound and Retta Dixon Homes in Darwin, and Garden Point and Croker Island. The Aboriginal families of the children were limited in their ability to maintain contact with their children. In many cases this contact is only now being re-established.

All Aboriginal people of the Northern Territory have to some extent been affected by these policies. Separation has had a deep effect on these people leaving them with a strong feeling of disaffection and dislike of Government institutions. A belief that there is a lack of recognition of the reality of their treatment adds to this.

The Northern Territory Government has shown that it understands the concerns of those known as the 'Stolen Generations' by its commitment to assisting Aboriginal people affected by the policies of separation. This is reflected through the development of this document and the implementation of procedures to assist the research process. This approach also strives to implement the recommendations of the Bringing Them Home Report.

4. Statement of Principle

The Northern Territory Government recognises the concerns of the people who are part of the Stolen Generations and their desire to reconstruct their families. While past separation policies have a continuing effect on citizens of the Northern Territory, it is a matter of concern for the Northern Territory Government to assist these people to seek out their family links to assist with the healing process.

The Northern Territory Government recognises, without prejudice to any claim the Stolen Generation may make to the ownership of information in the records, the right of Aboriginal people to have access to records in its custody which will help them to re-construct their families.

In recognising this right, the Northern Territory Government will provide Stolen Generations researchers access to information relevant to them and their families as outlined in this Protocol. It is understood that Aboriginal culture generally places considerable emphasis on the passing of information from generation to generation.

5. Who holds Northern Territory Government records?

There is no single body of records relating to Aboriginal people. Northern Territory Government agencies currently holding records which may be of relevance to Stolen Generations researchers include:

- Northern Territory Archives Service (see 8.1)
- Registrar-Generals Office: Registry of Births, Deaths and Marriages (see 8.2)
- Department of Health & Community Services (see 8.3)
- Hospitals and Community Health Centres (see 8.4)
- Northern Territory Police (see 8.5)
- Northern Territory Correctional Services (Department of Justice) (see 8.6)
- Supreme Court of the Northern Territory (see 8.7)
- Magistrates Court (see 8.8)

- Department of Employment, Education & Training/Schools (see 8.9)

As the Northern Territory Government has not administered Aboriginal affairs policy from a single agency, it maintains no particular identifiable policy records relating to the separation of Aboriginal children from their families. However, there may be information of relevance to particular cases of removal of children and subsequent government activity related to removed children among police, welfare, correctional and other records held by agencies.

6. Records not held by the Northern Territory Government

6.1 Commonwealth Government Records

Records of the Commonwealth Government which may be of relevance to Stolen Generations research range from case files about individuals to references to individuals in general policy records.

The function of Aboriginal Affairs and, therefore, the administration of the policy of removal of children rested with the Commonwealth Government. While there may be records of relevance to Stolen Generations research in Northern Territory Government records, it is recommended that Commonwealth records be consulted in the first instance as the Commonwealth has custody of a greater body of relevant records.

Such Commonwealth records in the Northern Territory may be found at the National Archives of Australia in Darwin. It is recommended that an appointment be made prior to visiting the National Archives as this will ensure full attention is given to inquiries. The contact details are as follows:

Postal address: National Archives of Australia
PO Box 24 Nightcliff NT 0814
Street address: Kelsey Crescent Nightcliff NT 0810
Telephone: (08) 8985 0300 Facsimile: (08) 8985 0399

The National Archives of Australia has a Memorandum of Understanding with the Central Australian Stolen Generations & Families Aboriginal Corporation and KARU Aboriginal and the Northern Territory Stolen Generations Aboriginal Corporation. The Memorandum sets out arrangements for access to open period Commonwealth records.

6.2 Records of other Organisations

Some church agencies in the Northern Territory also hold records which may be of relevance to Stolen Generations research. Advice about these may be obtained by approaching the churches directly or by approaching the Northern Territory Archives Service who can also provide information about relevant records held elsewhere in Australia.

7. General Access Conditions

7.1 Access to Archives

The Information Act requires government archives to be closed for 30 years from date of creation. This is to ensure that they remain available for the responsible agency to use in the course of conducting business and particularly to ensure that a reasonable period has lapsed after which the information they contain will no longer be considered confidential or sensitive.

Stolen Generations researchers will gain automatic access to Northern Territory Government

archives which are older than 30 years unless there is an access veto or legislative prohibition in place. For access to archives which are less than 30 years old, the Northern Territory Archives Service will seek access approval on behalf of the researcher from the department or agency which is responsible for the records concerned. For access to records which are still in the custody of particular departments or authorities see section 7.2, Access to Records in Agencies and section 8, Seeking Access.

In cases where particular series of records might be considered to contain personal and confidential information, these may be closed for further periods beyond 30 years.

The extended closure of records is normally determined by the Northern Territory Archives Service in consultation with the department or agency responsible for their creation. Where records relate to Stolen Generations issues the Aboriginal Advisory Group (see section 11) will also be consulted in relation to their continuing closure.

Despite these standard closed periods, any person may seek access to specified records which fall within the closed period by applying in writing, noting legitimate reasons, through the Northern Territory Archives Service. In the case of Aboriginal people researching their families, they are expected to provide details of family relationship to the person or persons about whom they are seeking information (see Access Request Form at the end of this protocol). Refer also to section 9 Access by Accredited Researchers.

7.2 Access to Records in Northern Territory Government Departments & Agencies

Section 8, Seeking Access provides details about seeking access to records which are still in the custody of particular Government agencies. The Information Act provides a mechanism for individuals to formally seek access to Government information through Freedom of Information (FOI) provisions. This Protocol provides an existing administrative arrangement whereby Aboriginal people researching their families can seek access to government information without having to apply through the FOI process. However, the FOI process is available to applicants in the event that they are not satisfied with the process provided through this Protocol. Staff at the Northern Territory Archives Service can help identify agency contacts to assist with FOI applications.

8. Seeking Access

8.1 First point of contact – Northern Territory Archives Service

The Northern Territory Archives Service is the designated first point of contact for Stolen Generations researchers seeking access to Northern Territory Government records, unless it is clear that birth, death or marriage records are required, in which case first point of contact may be the Registry of Births, Deaths and Marriages (see 8.2 below).

The contact details for the Northern Territory Archives Service are:

Postal address: Archivist, Information Access
Northern Territory Archives Service
GPO Box 874 Darwin NT 0801

Street address: 25 Cavenagh Street, Darwin 0800

Telephone: (08) 8924 7677 Facsimile: (08) 8924 7660

Email: nt.archives@nt.gov.au

It is recommended that an appointment be made with the Archivist prior to visiting the Northern Territory Archives Service as this will ensure that full attention is given to enquiries.

Examples of types of records in the custody of the Northern Territory Archives Service which may be relevant to Stolen Generations research are police journals, police correspondence, court records, welfare records, hospital records and education/school records.

The staff at the Northern Territory Archives Service will assist researchers with their enquiries and endeavour to help identify records in Archives custody which may be of relevance. If necessary, enquiries may also be referred to the appropriate Northern Territory Government department or agency by the Northern Territory Archives Service on behalf of researchers.

In seeking access to records which may be of a personal nature relating to Aboriginal people, an applicant must sign a declaration concerning use of the personal information that may be found. See the last pages of this protocol for the Access Request Form and the Agents Access Request Form.

Upon receiving an application to access potentially personal records the Northern Territory Archives Service will undertake a verification check with KARU, or Central Australian Stolen Generations and Aboriginal Families Corporation to ensure that the applicant is a Stolen Generations researcher, being a person, or member of the family of a person, affected by removal or separation policies.

8.2 Registry of Births, Deaths and Marriages

The other major holder of Northern Territory Government records which may be of relevance to Stolen Generations research is the Registrar-General's office – Registry of Births, Deaths and Marriages where a range of records are held relating to the registration of births, deaths and marriages of Aboriginal people in the Northern Territory.

The Aboriginal Population Record is also held there. Inherited from the Commonwealth Department of Aboriginal Affairs, this is a collection of genealogical information about Aboriginal people in the Northern Territory taken primarily from Census information dating back to the 1950s. The contact details are as follows:

Postal address: Deputy Registrar Births, Deaths and Marriages
GPO Box 3021 Darwin NT 0801

Street address: Nichols Place
Corner of Bennett and Cavenagh Streets, Darwin

Telephone: (08) 8999 6119 Facsimile: (08) 8999 6324

The Registrar-General's Office is prepared to train a limited number of accredited research officers in Darwin and Alice Springs who have skills and experience in archival or genealogical research. These accredited researchers may conduct research on behalf of individuals. Each researcher will have to be approved by both the Registrar-General's Office and the Aboriginal Advisory Group (see section 11).

The Registrar-General's Office has issued a policy procedural statement regarding access to Births, Deaths and Marriages records. Stolen Generations researchers may obtain certified copies of certificates for half the standard price.

8.3 Department of Health and Community Services

The Department of Health and Community Services is responsible for adoption, fostering and welfare records that may be of relevance to Stolen Generations research:-

Irrespective of where these records are held, the Department of Health and Community Services has an arrangement whereby access to relevant welfare and adoption records in its custody must be sought through the Aboriginal and Torres Strait Islander Child Care Agencies: KARU in Darwin; and Central Australian Stolen Generations and Families Aboriginal Corporation in Alice Springs. While most of these records are in the custody of the Northern Territory Archives Service, some records are held by the Department of Health and Community Services.

With regard to adoptions, the Adoption Information Unit maintains a Contact Register which may include the following information supplied by adopted persons and relinquishing parents:

- The current name, address and phone number of the registered person;
- Indication from the registered person as to whether they wish the information about them contained in the Register to be released to their child or parents;
- Their wishes in relation to contact.

The contact telephone number for the Unit is 8922 7077 or 8922 7046.

In the case of adoptions which took place under repealed legislation prior to 1994, an adopted person or relinquishing parent may lodge a veto which prohibits the release of information which identifies them. A veto may remain in force for three years unless revoked by the person who lodged it. Upon expiry or revocation it can be reinstated for further periods of up to three years. Adoptive parents cannot lodge vetoes. The number of current vetoes relating to Aboriginal persons is very small.

8.4 Hospitals and Community Health Centres

The Department of Health and Community Services is also responsible for patient records from public hospitals and community health centres (urban and rural). While some hospital records are in the custody of the Northern Territory Archives Service most are still maintained by the relevant hospital or community health centre.

8.5 Northern Territory Police

Northern Territory Police records may contain information about police carrying out their duties in compliance with the Northern Territory Aboriginal Ordinance. There is a large volume of police journals from stations throughout the Northern Territory.

In some cases criminal history records may also be relevant. The majority of these records are held at the Northern Territory Archives Service, while some other police records are held at the National Archives in Darwin.

8.6 Northern Territory Correctional Services - Department of Justice

In some cases the records about prisoners may be relevant to Stolen Generations research. The majority of potentially relevant records from Darwin Prison and the former Fannie Bay Gaol are held at the Northern Territory Archives Service. Access to other prison records, including those of Alice Springs Prison, may be sought through Northern Territory Correctional Services. The contact

details are as follows:

Postal address: Director Administrative Services
NT Correctional Services GPO Box 3196 Darwin NT 0801

Telephone: (08) 8999 5111 Fax: (08) 8999 5050

The Juvenile Justice function was not assumed by Northern Territory Correctional Service until 1984. Juvenile Justice records prior to that period are in the custody of the Northern Territory Archives Service. Access to these records may be sought through Northern Territory Correctional Services.

8.7 Supreme Court of the Northern Territory

Adoption records administered by the Supreme Court prior to 1985 are in the custody of the Northern Territory Archives Service.

In accordance with the Adoption of Children Act 1994, s. 60-62, Ministerial approval for access to these records is delegated to the Adoption Information Unit of the Department of Health and Community Services, as outlined in 8.3. Aboriginal and Torres Strait Islander Child care agencies are also delegated to access these records.

In some cases Criminal or Civil case records of the Supreme Court may be of relevance to Stolen Generations research. These records are mostly held at the Northern Territory Archives Service. However, for records in the regions outside of Darwin, the first point of contact should be the courts.

8.8 Magistrates Courts

The records of what are commonly known as Magistrates Courts (Courts of Summary Jurisdiction and Local Courts) may contain information of relevance to Stolen Generations research. These courts are located in Darwin and regional centres of the Northern Territory. Court records which may be of relevance are predominantly in the custody of the Northern Territory Archives Service. However, for records in the regions outside of Darwin, the first point of contact should be the courts.

8.9 Department of Employment, Education and Training/Schools

There may be some records of relevance to Stolen Generations research in student records of the Northern Territory Department of Education. The Northern Territory Archives Service holds the student records of only a small number of schools, so researchers in most cases may be referred to the relevant school for information.

It is noted that the majority of school information with potential relevance to this research may be held in mission records not under the control of the Northern Territory Government.

9. Access by Accredited Researchers

Stolen Generations researchers may seek the services of accredited researchers, or agents, to access Northern Territory Government records and / or to carry out research on their behalf. The benefits of seeking the assistance of accredited researchers are as follows:

- they are recognised by the Northern Territory Government and the Northern Territory Stolen Generations community;

- they have existing skills in conducting research;
- having given specific undertakings to abide by a code of ethics and practice in carrying out Stolen Generations research, they have automatic rights of access to Northern Territory Government records which are older than thirty years;
- they can deal appropriately with information found in the records from the persons on whose behalf they are seeking family information where that information could be distressing.
- they have an understanding of the responsibilities under the Information Act which Northern Territory Government employees have in relation to protecting privacy of personal information.

Designated staff of Aboriginal and Torres Strait Islander Child Care agencies, i.e. KARU and Central Australian Stolen Generations and Families Aboriginal Corporation are automatically accredited agencies for accessing Northern Territory Government records for Stolen Generations research, and their nominated staff are registered as accredited researchers.

Applications from individuals wishing to be appointed as accredited Stolen Generations researchers are approved by the Aboriginal Advisory Group (see section 11).

Contact details of accredited researchers will be retained by all relevant agencies and organisations having any relationship with this area of research in the Northern Territory.

10. Code of Ethics and Conduct

The Code of Ethics and Conduct for Stolen Generations Researchers is particularly directed to address the issues of privacy in relation to disclosure of personal information and the possible distress which may be experienced in learning about family information:

- Personal information obtained from Northern Territory Government records must not be published or disclosed to persons other than the person who is the subject of information, unless that person provides permission in writing. If that person is deceased or cannot make legal decisions, responsibility is passed to the next of kin.
- Researchers must accept full responsibility for safeguarding personal information in copies of records obtained from the Northern Territory Government.
- Accredited researchers should consider discussing individual requests for access to personal information with a counsellor or some other appropriate person with knowledge of the issues relating to the Stolen Generations before providing the information requested.

11. Aboriginal Advisory Group

The Northern Territory Archives Service provides material and administrative support to an Aboriginal Advisory Group which has been established to address issues of access by Stolen Generations researchers to Northern Territory Government records. The group has established terms of reference for its operation and will periodically review the Protocol and these terms of reference.

The Aboriginal Advisory Group comprises:

- two representatives from the Stolen Generations community (one from the Top End and one from Central Australia);
- one representative from the Central Australian Stolen Generations and Families Aboriginal Corporation;

- one representative from KARU; and
- two representatives from the Northern Territory Public Sector.

12. Using records

12.1 Handling records

Due to the age and sometimes the past use of records which may be relevant to Stolen Generations research, they may be in fragile condition. Researchers are asked to take particular care in the handling of these records. Once identified, the relevant agency will endeavour, where possible, to repair fragile records or make reference copies to assist with preservation of the originals.

12.2 Copying Records

Where the Access Request Form has been used, photocopying of Northern Territory Government records for Stolen Generations researchers will be provided by the Northern Territory Archives Service and other Northern Territory Government agencies free of charge.

The time-frame for providing requested photocopies will be subject to the staffing workloads of the Northern Territory Archives Service or of other agencies at the time of the request.

Northern Territory Government employees are required to abide by the Privacy Principles as prescribed in the Information Act when providing access to government information. It is also the responsibility of Stolen Generations researchers to safeguard personal information contained in the copies they obtain from the Northern Territory Government.

12.3 Accuracy of Information in Records

If a Stolen Generations researcher believes that information contained in a Northern Territory Government archive or record is inaccurate, he or she may make a statement in writing expressing the concern about the particular record. The proper references to the record must be cited in the statement. If the subject of the record is deceased this statement may be made by the spouse or child of the subject. This can be done in accordance with provisions of the Information Act regarding access to and correction of personal information.

The statement must be signed and dated by the author and addressed to the agency which holds the information. The agency concerned is obliged to attach the statement to the record containing the information claimed to be inaccurate.

12.4 Sensitivity of Information

The discovery of personal family information from records has the potential to be very upsetting. The use of an accredited researcher can assist in protecting a person from distress on the discovery of sensitive family information. Refer to section 9 Access by Accredited Researchers.

12.5 Counselling

Counselling services are available for those people who may need assistance in coming to terms with the discovery of sensitive or personal family information. In the case of access to adoption records, there is a legislative requirement for counselling to be arranged.

Please note that counselling is free and confidential.



The following agencies in the Northern Territory can provide counselling services to Stolen Generation researchers if they require assistance:

Darwin

Danila Dilba, Social & Emotional Well Being Centre,
Phone: 8936 1777 Fax:8941 8402

Katherine

Wurli Wurlinjang Aboriginal Health Service
Phone: 8971 1156 Fax: 8972 2373

Tennant Creek

Anyinginyi Congress Aboriginal Corporation
Phone:8962 2385 Fax:8962 2304

Alice Springs

Central Australian Aboriginal Congress, Social & Emotional Well Being Centre
Phone: 8951 4461

Crisis Counselling – Crisis Line 8981 9277
(24 hour telephone counselling office appointments)

Areas out of Darwin Free call 1800 019 116

13. Repatriation of Records

The Northern Territory Government will give sympathetic consideration to providing copies of records relating to people of an Aboriginal community to be housed in an appropriate keeping place in that community.

Copies will be made of records as time and resources permit and, where they are to be kept by a community, will be subject to undertakings to protect any sensitive information. Decisions about repatriation of records will be made in accordance with the obligations of Northern Territory Government employees to the Privacy Principles as prescribed in the Information Act.

14. Destruction of Records

In the process of overseeing Northern Territory Government records, the Northern Territory Archives Service will withhold from destruction records which may contain information of relevance to Stolen Generations research.

In withholding these records from destruction, consideration will be given to their further retention.

15. Undertaking for Improved Access

The Northern Territory Archives Service and other relevant Northern Territory Government agencies will endeavour to continually improve the delivery of services to Aboriginal people researching their families through records held by Northern Territory government agencies.

The Aboriginal Advisory Group will determine if and when it may be necessary to review the Protocol



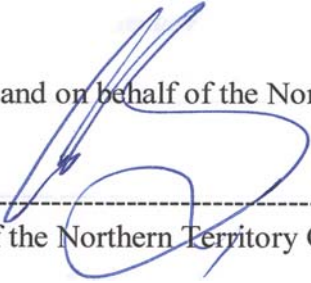
The Northern Territory Archives Service will provide information about archival resources relating to the Northern Territory, including private collections, which are of potential relevance to Stolen Generations researchers.

Private donors handing over collections will be asked to consider not placing access restrictions on the records which might prevent approved researchers being able to fully utilise them.

Should additional material held by the Northern Territory Government be identified as being of relevance to the Stolen Generations, yet not apparently covered by the provisions of this protocol, the Northern Territory Archives Service with the assistance of the Aboriginal Advisory Group may arrange for such material to be brought within its scope.

SIGNATORIES TO THE PROTOCOL

Signed for and on behalf of the Northern Territory Government

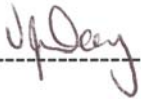


Minister of the Northern Territory Government

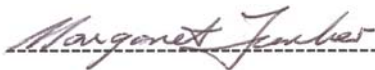
Signed for and on behalf of the KARU Aboriginal and
Torres Strait Islander Child Care Agency



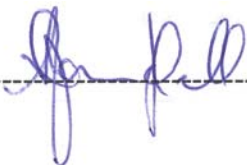
Signed for and on behalf of the Northern Territory Top End
Stolen Generations



Signed for and on behalf of the Northern Territory Central Australian
Stolen Generations



Signed for and on behalf of the Central Australian Stolen Generations and Families Aboriginal
Corporation



Access request: Declaration about use of records by client/agent

I request access for myself or my agent to records of the Northern Territory Government about:

Name: _____
(name of person being researched)

Relationship to me (self, spouse, child etc): _____

Declaration about use of records

- I understand that because of the way the records were created, I may see personal information about people other than the person being researched, including information that is normally withheld from public access.
- I will not reveal sensitive information about a person without the written consent of the person (or the next of kin if the person has died or cannot make legal decisions) and I accept full responsibility for safeguarding personal information contained in copies of records that I obtain from the Northern Territory Government.
- Where applicable, I as agent will only provide information obtained, to my client who has signed this Access Request Form.
- Furthermore, I agree to indemnify the Northern Territory of Australia (or its agents, including the Registrar of Births, Deaths and Marriages) in respect of any claims or demands which may be made against, or in respect of, any such person, arising out of, or in connection with, any use or disclosure (whether or not such disclosure is permitted by the Northern Territory of Australia) of the material by the applicant or me.
- I understand that if I breach these conditions, research privileges will be withdrawn from me by the Northern Territory Government.

Client

Name: _____

Address: _____

Signature: _____

Date: _____

Agent

Name: _____

Organisation / Address: _____

Signature: _____

Date: _____

Verified as Stolen Generation researcher by:

Organisation

Signature of representative

Date

Client authorisation of agent

I authorise the following person as my agent to have access to records and request copies of records for me.

Name of agent: _____

Organisation or address: _____

Signature: _____ Date: _____

Privacy of information

All personal information collected by Northern Territory Government agencies in the receipt of your application is treated as confidential and protected by the Information Act. The information may be passed on to other government agencies to assist in sourcing relevant information in response to your enquiry.

