



To: All Commonwealth departments and authorities, and former authorities of the Commonwealth

Notice of Disposal Freeze: Aboriginal and Torres Strait Islander records held by certain Australian Government agencies to include records that relate to the payment of wages, pensions or allowances.

The purpose of this document is to notify Australian Government agencies and other agents or people in possession of Commonwealth records that I have extended the current disposal freeze on records that relate to Aboriginal and Torres Strait Islander people who were separated from their families.

Following the release of the Senate Legal and Constitutional References Committee's report, *Unfinished Business: Indigenous Stolen Wages* in 2007 the National Archives placed a disposal freeze on relevant records in the Archives collection. In response to recent high level interest, enquiries and reports across all jurisdictions, the Archives has moved to protect any surviving records held by Commonwealth Government agencies.

This extension will take effect immediately and will be in force until further notice. It applies to agencies currently holding the records described in the attached guidelines and is provided to all other agencies for information and advice.

Purpose

The disposal freeze is to ensure the protection of rights and entitlements of the individuals who present claims and of the Commonwealth in defending or processing those claims.

The disposal freeze is to include:

- records relating to the payment or withholding of wages, pensions and allowances to Indigenous people from 1 January 1901 to 31 December 1989.
- policies, procedures and records containing information about individuals affected by these policies and procedures in that time period.

The records about individuals are limited to persons who have been positively identified as being Aboriginal or Torres Strait Islander. In some cases benefits were withheld from Indigenous people or paid to third parties.

Descriptions of the categories of relevant records are attached. Notification will be issued if it is necessary to further vary the scope of the freeze.

Authority

This action is taken pursuant to section 24(2)(b) of the *Archives Act 1983*.

Duration

This extension will take effect immediately and will be in force until further notice.

Action required

Agencies and other agents or people in possession of Commonwealth records should:

1. Ensure that staff responsible for records management are informed of the extension to the current disposal freeze.
2. Check if they or their records service providers have any records due or overdue for destruction that come within the scope of the disposal freeze.
3. Withhold from destruction any such records identified.
4. Contact the National Archives about transferring these records.

Enquiries

For enquiries, please contact Christine Johnston, Director Agency Relations on (02) 6212 3732, or by email christine.johnston@naa.gov.au

Date of notice



Ross Gibbs
Director-General
National Archives of Australia
10 December 2009

Notice of extension of the scope of the current freeze on destruction of certain records relating to Aboriginal and Torres Strait Islander people

Guidelines for agency staff:

1. Purpose and scope

The purpose of this document is to notify Australian Government agencies and other agents or people in possession of Commonwealth records that the National Archives of Australia has extended the scope of the disposal freeze, originally implemented in 1996, covering records that could assist Indigenous people separated by former government policies to link up with their families and communities. The extension covers records that contain:

- information on policy or procedures about withholding wages, pensions or allowances from Indigenous people between 1 January 1901 and 31 December 1989; or
- information about individuals affected by these policies and procedures.

If agencies have inherited relevant records created prior to this period, they should also be included.

The aim of extending the freeze is to protect any surviving records which relate to the payment of wages, pensions or allowances to Indigenous people. In some cases, wages or benefits were withheld from Indigenous people and paid to third parties. The disposal freeze is to ensure the protection of rights and entitlements of the individuals who present claims and of the Commonwealth in defending or processing those claims.

The document provides a practical guide for implementing the freeze on destruction. This destruction freeze remains in force until formal notification by the National Archives that it has been lifted.

2. Background to the Destruction Freeze

2.1 In 1991 the Royal Commission into Aboriginal Deaths in Custody found that the number of deaths in custody was higher for Aboriginal people who had been separated from their families than for Aboriginal people who had not.

Recommendation 53 stated that:

Commonwealth, State and Territory Governments provide access to all Government archival records pertaining to the family and community histories of Aboriginal people so as to assist the process of enabling Aboriginal people to re-establish community and family links with those from whom they have been separated as a result of past policies of the Government ...

- 2.2 In 1997, the *Bringing Them Home* report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families made several recommendations relating to records. Recommendation 21 stated:
That no records relating to Indigenous individuals, families or communities or to any children, Indigenous or otherwise, removed from their families for any reason, whether held by government or non-government agencies, be destroyed.
- 2.3 In its formal response to the *Bringing Them Home* report on 16 December 1997, the Government supported the indefinite freeze on the destruction of records which may be of assistance in Indigenous family reunions.
- 2.4 In 1996, the National Archives implemented a freeze on the destruction of all records in its custody that could be of use to Indigenous people tracing their family and community connections. It was originally thought that all relevant records would already be in the National Archives' custody in our Darwin, Canberra and Melbourne offices. The freeze was therefore initially implemented within the National Archives.
- 2.5 In September 2000, the freeze was extended to cover records still in the custody of selected Commonwealth agencies considered likely to have relevant records. The freeze applies to records which are useful for establishing family and community histories of Aboriginal and Torres Strait Islander people who were separated from their families as a result of past Government policies.

3. How are agencies affected?

The National Archives will generally not permit destruction of records, or allow temporary records to be withdrawn from National Archives' repositories for sentencing, when they are known to be subject to the freeze.

4. Which records are affected?

These are the main groups of records that are the subject of the destruction freeze:

4.1 Northern Territory Administration, 1911-78.

A large quantity of potentially relevant records relating to the Commonwealth government's administration of Aboriginal Affairs and related functions for the Northern Territory between 1911 and 1978, were created mainly in Canberra and Darwin. Most of these records are already in the National Archives' custody, but some material may still be held in Commonwealth agency custody.

4.2 State Government created records inherited by the Commonwealth.

In 1967 the Commonwealth was constitutionally empowered to legislate regarding Aboriginal people. As a result of this, when Aboriginal affairs functions were transferred by the states to the Commonwealth in the 1970s, some state created records were also transferred to enable ongoing administration. The National Archives now holds records transferred from the Victorian State Government, dating from 1860 to 1970. The Archives also holds small quantities of files and a card index that were passed by the Western Australian and South Australian State Governments to the Commonwealth Department of Aboriginal Affairs state offices and were then transferred to the National Archives when no longer active. It is perhaps possible that an occasional file, index etc inherited from a State Government may still be in Commonwealth agency custody and should be transferred to the National Archives.

4.3 Commonwealth created records

- **Records created by agencies dealing with Aboriginal affairs functions:** created by the Department of Aboriginal Affairs, the Aboriginal and Torres Strait Islander Commission (ATSIC) and related agencies.
- **Records created by agencies with whom Aboriginal and Torres Strait Islander people have had contact:** case files and records that mention Aboriginal and Torres Strait Islander people in an incidental manner may hold information useful to those tracing their families.
- **In many cases these records may provide information about people affected by separation that is not recorded elsewhere:** records of this type are perhaps most likely to still be in agency custody.
- **Records relating to the payment of wages, pensions or allowances to Aboriginal and Torres Strait Islander people:** may be included within policy, procedural or other records that agency staff may not immediately associate with this freeze.

4.4 It is possible that agencies may have records which may appear to be outside the scope of these guidelines but which they feel may be useful for Aboriginal and Torres Strait Islander people tracing their families and communities, or wages, pensions or allowances. If this does happen the agency should contact the National Archives for assistance.

5. Records covered by the destruction freeze:

5.1 Any records directly related to the development and/or implementation of the policy of separation or the payment of wages, pensions or allowances to Aboriginal and Torres Strait Islander people should be retained:

- no matter how trivial the information; and
- regardless of whether they contain name identified personal information.

These include records referring to missions or institutions, such as children's homes, which were primarily established to accommodate Aboriginal children. See Appendix 1 for examples.

5.2 Records containing name identified personal information about Aboriginal and Torres Strait Islander people under the following criteria:

- 5.2.1 Entire series or groups of records wholly or substantially relating to Aboriginal and Torres Strait Islander people. See Appendix 1 for examples.
- 5.2.2 Other records containing significant name identified personal information for Aboriginal and Torres Strait Islander people. This does not mean agencies should apply this destruction freeze to general population case files in case they contain records relating to Aboriginal and Torres Strait Islander people. Only records relating to people who can be positively identified as Aboriginal or Torres Strait Islander people are covered by this destruction freeze. See Appendix 1 for examples.
- 5.2.3 General population case files where the person can be positively identified as an Indigenous person and the file contains significant personal history information such as education, housing, health and employment histories. See Appendix 1 for examples.
- 5.2.4 Other items subject to this destruction freeze:
- *Bringing Them Home* name index project: items in National Archives' custody identified for indexing as part of the project; and
 - National Archives documentation of the freeze: the Archives will permanently retain records documenting the process of reviewing records in National Archives custody, and negotiating with Commonwealth agencies to identify and evaluate records which might be relevant to the freeze. This will show why decisions were made to retain or destroy records that were proposed as suitable for retention under the freeze.

6. How are Disposal Authorities and Sentencing affected?

- 6.1 Records to which the destruction freeze applies that would normally be destroyed under a General Disposal Authority or Records Authority must not be destroyed while the freeze is in place. Destruction of these records during the freeze would constitute illegal disposal under Section 24 of the Archives Act 1983.
- 6.2 Where current records authorities exist for records being retained because of the destruction freeze, the Records Authority, class and disposal action of the records should be recorded for future reference should the freeze be reviewed.
- 6.3 Where records not covered by current Records Authorities are identified as being subject to the destruction freeze, agency staff may cite the freeze as the only disposal action required to justify transferring the records to the Archives.
- 6.4 When records are transferred to the National Archives, RecordSearch must show any relevant disposal authority, class and disposal action and that there is a freeze on the destruction of the records.

7. Transfer of records affected by the destruction freeze

Records covered by the destruction freeze should be transferred to the National Archives to preserve them and facilitate access to them.

- 7.1 Agencies should separate records into consignments of permanent records; temporary records and records with no Records Authority coverage, using the current Disposal Authorities that would normally apply to them. This will assist in the management of these records should the freeze be reviewed in the future.
- 7.2 Transfer documentation should record whether the records are covered by a current Records Authority and the fact that the records are subject to the destruction freeze.
- 7.3 Agencies should provide a brief note with transfer documentation explaining how the records meet the destruction freeze guidelines or other reasons why they would be useful for Aboriginal or Torres Strait Islander people tracing their family or community ties.

8. Action required of agency records managers

Records managers should assess their agencies' holdings to identify significant groups of records subject to the freeze, and ensure that:

- sentencing officers are aware of the terms of the destruction freeze;

- records are sentenced in accordance with both current Disposal Authorities and the destruction freeze criteria outlined above;
- National Archives is consulted about records not covered by the destruction freeze criteria that may be useful for Aboriginal and Torres Strait Islander people;
- National Archives is consulted before agency staff apply to transfer records they believe are covered by the freeze;
- records subject to the destruction freeze are separated from other records and placed in consignments of permanent, temporary and un-sentenced records. The National Archives should be consulted where this is not practicable, for example where there is only a small quantity of records; and
- agencies must document the disposal action taken, the records' current Disposal Authority status or the lack of a relevant Disposal Authority, and the fact that the records are subject to this destruction freeze, before applying to transfer the records to National Archives.

APPENDIX 1 - Examples of records covered by the destruction freeze

Examples of records held by the National Archives of Australia that may be similar to records held in agencies.

1. Guidelines for paragraph 5.1: Any records directly related to the development and/or implementation of the policy of separation or the payment of wages, pensions or allowances to Aboriginal and Torres Strait Islander people should be retained:

- no matter how trivial the information; and
- regardless of whether they contain name identified personal information.

These include records referring to missions or institutions, such as children's homes, which were primarily established to accommodate Aboriginal children.

Examples

- 1.1 K431, Correspondence files, annual single number series with (by 1974) partial numeric/alphabetical suffixes, 1928- (located Perth).
[Most of the pre-1970s material is held by the Western Australian State Government].

Agency recording

1928-1936: CA 5269, Western Australian Government, Aborigines Department;

1936-1953: CA 5270, Western Australian Government, Department of Native Affairs;

1953-1972: CA 5271, Western Australian Government, Department of Native Welfare;

1972-1974: CA 5272, Western Australian Government, Aboriginal Affairs Planning Authority;

1974-1990: CA 2604, Department of Aboriginal Affairs, State Office, Western Australia/ (by 1977) Department of Aboriginal Affairs, Western Australian Region, Head Office;

1990-2005: CA 7078, Aboriginal and Torres Strait Islander Commission, State Office, Western Australia; or

2005- : CA 9054, Office of Indigenous Policy Coordination, State Office, Western Australia.

- 1.2 D4082, Northern Territory Welfare Branch case files, South Australia and Northern Territory, single number with variable alpha prefix, 1957-73 (created Adelaide, now located Darwin).

This series was created by the Adelaide Office of the Northern Territory Welfare Branch. It contains information about the Adelaide office as well as details about State Wards, adoptions and Aboriginals who were sent to South Australia for education, medical care etc.

Agency recording

1963-1972: CA 6571, Welfare Branch, Northern Territory Administration, Adelaide/ (from 1972 also known as Welfare Division).

- 1.3 A431, Item 1949/496, Care of Half-Caste Children by C.M.S [Church Missionary Society of Australia and Tasmania] Part 2, 1947-1951 (located Canberra)

Agency recording

1947-1951: CA 31, Department of the Interior [II], Central Office.

- 1.4 E739, Item O1, Aboriginal Trust Account - General, 1954-1958 (located Darwin)

Agency recording

1954-1955: CA 1117, Native Affairs Branch, Alice Springs; and
1955-1958: CA 2842, District Welfare Office, Giles District [Alice Springs] [I].

- 1.5 F1, Item 1952/551 PART 1, Aboriginal Trust Account general correspondence, 1950-1954 (located Darwin)

Agency recording

1950-1954: CA 1070, Administrator, Northern Territory [II] - Central Registry.

- 1.6 F1, Item 1965/351, Undoolya - Social services benefits - Aboriginals - Maintenance claims payments and employment returns, 1960-1966 (located Darwin)

Agency recording

1960-1966: CA 1070, Administrator, Northern Territory [II] - Central Registry.

- 1.7 F1, Item 1965/2004, Employment of Aboriginal women in Darwin, 1965 (located Darwin)

Agency recording

1965: CA 1070, Administrator, Northern Territory [II] - Central Registry.

- 1.8 F1, Item 1959/3142, Training and employment Aboriginal cooks - Arrangements with Department of Health, 1959-1963 (located Darwin)

Agency recording

1959-1963: CA 1070, Administrator, Northern Territory [II] - Central Registry.

2. Records containing name identified personal information about Aboriginal and Torres Strait Islander people under the following criteria:

- 2.1 Guidelines paragraph 5.2.1a: Entire series or groups of records wholly or substantially relating to Aboriginal and Torres Strait Islander people.

Examples

- 2.1.1 A263, Album of Anthropological Photographs in connection with the Aboriginal enquiry Central and North Australia, 1928 (located Canberra)

Agency recording

1928: CA 15, Department of Home and Territories, Central Office.

- 2.1.2 B313, Correspondence files, 1869-1957 (located Melbourne)
This series comprises mainly correspondence and also copies of legislation relating to the administration of Aboriginal Affairs, population statistics and maps. It covers matters concerning Aboriginal stations and reserves; issuance of certificates to Aborigines to enter into work contracts with white persons; prevention of certain persons entering Aboriginal Stations without permit; expulsion of persons from Lake Tyers Aboriginal Station; Aboriginal administration in other States; monthly rolls of attendance and returns for stores at Aboriginal Stations; District Educational Inspectors' reports on schools attended by aboriginals; reports of local guardians, exhibitions; representations; and visits and statistics.

Agency recording

1869-1957: CA 2013, Victorian Government, Central Board for the Protection of the Aborigines.

2.2 Guidelines for paragraph 5.2.1b: Other records containing significant name identified personal information for Aboriginal and Torres Strait Islander people.

This does not mean agencies should apply this destruction freeze to general population case files in case they contain records relating to Aboriginal and Torres Strait Islander people. Only records relating to people who can be positively identified as Aboriginal or Torres Strait Islander people are covered by this destruction freeze.

Examples

- 2.2.1 A1, Item 1937/2416, Fellowship of Australian Writers - assistance for Aborigines - Northern Territory, 1937 (located Canberra).

Agency recording

1932–1938: CA 27, Department of the Interior [I], Central Administration.

2.2.2 A1, Item 1927/1298, Murder of Japanese citizen – Asari – Northern Territory, 1926–1927 (located Canberra)

This is a single file referring to Aboriginal and Torres Strait Islander people in a large series of correspondence files.

Agency recording

1926–1927: CA 15, Department of Home and Territories, Central Office.

2.2.3 A431, Item 1949/492, Protests registered against transfer of Half-castes from Mulgoa to Alice Springs and Semaphore, 1949–1951 (located Canberra).

This is a single file referring to Aboriginal and Torres Strait Islander people in a large series of correspondence files.

Agency recording

1949–1951: CA 27, Department of the Interior [I], Central Administration.

2.2.4 A431, Item 1949/1478, Transfer of Prisoners from Darwin Gaol to Alice Springs, 1946–1950 (located Canberra)

This is a single file referring to Aboriginal and Torres Strait Islander people in a large series of correspondence files.

Agency recording

1946–1950: CA 31, Department of the Interior [II], Central Office.

2.2.5 A452, Item 1953/109, Northern Territory - Elsey Station Cemetery, 1943–1946 (located Canberra)

This is a single file referring to Aboriginal and Torres Strait Islander people in a large series of correspondence files.

Agency recording

1943–1946: CA 31, Department of the Interior [II], Central Office

2.3. Guidelines for paragraph 5.2.1c: General population case files where the person can be positively identified as an Indigenous person and the file contains significant personal history information such as education, housing, health and employment histories.

Examples

- 2.3.1 B336, Files of the Housing Member of the Aborigines Welfare Board, 1951–1965 (located Melbourne)

Agency recording

1951–1957: CA 2013, Victorian State Government, Central Board for the Protection of the Aborigines; or
1957–1965: CA 2014, Victorian State Government, Aborigines Welfare Board.

- 2.3.2 B2295, Health record cards, alphabetical series, 1959–1963 (located Melbourne)

This series consists of "Pre-School Cards" and "Infant Welfare Centre" cards used to record the health of Aboriginal infants, pre-school children as well as adults and whole families with children. The cards describe family history, medical history as well as living and social security conditions. The cards cover the whole of Victoria

Agency recording

1959–1963: CA 5968, Victorian State Government, Department of Health.

- 2.3.3 A1322, Item P1963/51885, Sandow NGULNGAIARI [Pension case file], 1963–1964 (located Canberra)

Agency recording

1963–1964: CA 32, Department of Social Services, Central Office.