



Dr Fiona Arney  
Independent Inquiry into Foster and Kinship Care  
South Australia

17 May 2022

Dear Dr Arney,

Thank you for the opportunity to provide a submission to the Independent Inquiry into Foster and Kinship Care in South Australia.

The research project *Rights In Records by Design*<sup>1</sup> focusses on the lifelong impact of records on those who have experienced out-of-home Care. This project is connected to the 'Setting the Record Straight for the Rights of the Child' initiative (see <https://rights-records.it.monash.edu/>), under which initiative a National Summit was held in May 2017. The *Rights In Records by Design* project explores the impact that recordkeeping and/or lack of recordkeeping and access to information about decision making has on Care-experienced people, not only during their time in care, but for their subsequent identity, well-being, rights and entitlements, and social connections. The research has been undertaken involving a range of community stakeholders, using the testimony and experience of those with lived experience particularly Care Leaver advocates connected with CLAN and CREATE.

One outcome of our work is the Charter of Lifelong Rights in Childhood Recordkeeping in Out-of-Home Care (<https://www.monash.edu/it/clrc>). The Charter links recordkeeping rights to broader human rights illustrating how records can and should be created and managed with the objective of enabling activation of human rights for children (and their adult selves). This Charter positions the child as central to the recordkeeping endeavour, moving attention away from the normal organisation centric focus. This shifts the emphasis from a culture of surveillance and potential weaponization of data favouring the defensive organisational recordkeeping role towards a more empathetic concept where records are conceived of, express and enable continuous care, safety and well being of children. To do so, the recordkeeping rights outlined in the Charter must be understood and activated throughout the Care system as a means of enabling children's participation in decisions that affect them, for ensuring that the voice of the child is heard, and for enabling life long accountability at all points in the Care system. We commend the Charter to your

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<sup>1</sup> Rights in Records by Design, ARC Discovery Project DP170100198, Chief Investigators Associate Professor Joanne Evans (Monash University), Associate Professor Jacqueline Wilson (Federation University), Professor Sue McKemmish (Monash University), , Associate Professor Philip Mendes (Monash University), Professor Keir Reeves (Federation University), and Dr Jane Bone (Monash University)

notice, and note that the Charter has been endorsed by a range of Commissioners for Children and Young People, recordkeeping regulators and service providers, including State Records South Australia (see list of endorsements at <https://www.monash.edu/it/clrc/endorsement>).

Recordkeeping is implicit in each of the terms of reference provided to the Independent Inquiry. Complaints are not possible without records supporting or enabling inquiry into events and actions asserted. Consultation requires respectful dialogue across agreed agenda accompanied by agreement on the ensuing discussion. Information and documentation sharing is a critical component in providing adequate information but must also be done with as much transparency and accountability to the child and family as possible. The person at the centre of the record needs to be the focus of the record, not the organisation.

In the complex ecosystem supporting children removed from their biological families, children may experience multiple forms of out-of-home Care during their childhood, including Foster Care and/or Kinship Care. Records made for and about children can occur in multiple Care environments, each provisioned under complex distributed networks of contractual obligations. Such contractual arrangements incorporate recordkeeping as a means of holding organisations to account for services provided using statistical data, collective outcome reporting and proof of impact of services. In this complex web of arrangements, the focus on the child can become lost in layers of service obligations.

At the heart of our research is recordkeeping focussing on the child and their lifelong needs. The organisation centric approaches of our current systems must be transformed to position children at the centre. Our research centres the importance of records made for, by and about children throughout the ecosystem and across time. The more complex, layered and distributed the system for delivering safe environments for children, the greater the need for attention to recordkeeping at each and every level of the system, as well as ensuring that the organisational record will last for as long as it is required, with rights assigned to the individual documented in the record.

To briefly address specific issues relevant to the Terms of Reference, we offer the following specific linkages to recordkeeping:

## **Complaints**

To successfully make and prosecute complaints, evidence of actions or inaction must be able to be asserted, tested and considered. In environments where power is unevenly distributed, and a child is at a significant disadvantage, records related issues which would assist a child bring a complaint include:

- Ensuring that a child has a copy of the record at the time it was made ([Recordkeeping Right: Participatory and Records Creation](#) Rights; see also [Practical Advice 5: Creating child-centred records](#))
- Ensuring that the child's participation and voice is clearly represented in the records ([Recordkeeping Right: Participatory and Records Creation](#) Rights; see also [Practical Advice 5: Creating child-centred records](#))

- Enabling a child to make and keep their own records ([\(Recordkeeping Right: Participatory and Records Creation](#) Rights; see also [Practical Advice 7: Recordkeeping and Lifestory Resources](#) and [Practical Advice 6: Selecting Apps](#))
- Enabling the child to understand the complex organisational ecosystem making up the Care environment and where a records might be held about a child within that ecosystem ([Recordkeeping Right: disclosure](#) and [Practical Advice 2: What records are made about a child](#) )
- Enabling a child to seek assistance in navigating complex interrelated systems from an independent recordkeeping expert ([Recordkeeping right: Records expertise](#) and [Practical Advice 8: Recordkeeping Expert Adviser](#))

#### **Consultation and documentation:**

- Providing copies of records to all participants, specifically the child and/or family at the time it was made ([Recordkeeping Right: Participatory and Records Creation](#) Rights; see also [Practical Advice 5: Creating child-centred records](#) )
- Ensuring that the child’s participation and voice is clearly represented in the records ([Recordkeeping Right: Participatory and Records Creation](#) Rights; see also [Practical Advice 5: Creating child-centred records](#) )
- Enabling rights over who can access and use records ([Recordkeeping right: Access](#); see also [Practical Advice 4: Recording the child’s view on managing their records](#) and [Practical Advice 9: Access to records](#))
- Enabling alternative views to be expressed to those recorded in the ‘official’ record ([Recordkeeping Right: Participatory and Records Creation](#) Rights; see also [Practical Advice 10: Talking back to the record](#))

#### **Information Sharing:**

- Ensuring clear statements about when permission will be sought for information sharing, and when this will be done automatically, including information about who the information is shared with, ([Recordkeeping rights: Access rights and Privacy and safe recordkeeping rights](#) see also [Practical Advice 3: How information in records will be used or shared with others](#))

In addition to the above, we would highlight the importance of a child being able to access and manage records about themselves and their family for the whole of their life. To enable this, protective measures relating to the longevity of records must be established across the whole Care ecosystem. Responsibility for ensuring the long term sustainability of records across the system may be assigned to a government department, or alternative arrangements established to ensure that the records will continue to exist to serve the child for their whole life (and potentially longer to address the needs of further generations potentially affected by intergenerational impacts of Care).

To illustrate the transformative capacity of recordkeeping focussed on the child as the central focus, our research has created a system prototype MySSy - a personal recordkeeping system for those with Care experience, available at <https://rirservermonash.gitlab.io/landing/>.

The issues of embedding appropriate recordkeeping rights into systems to serve the lifelong interests of the child are complex and ongoing. We would be very pleased to expand upon any areas brought to your attention in this submission.

Yours sincerely

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