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## THE RETENTION OF RECORDS BILL

### **SURVIVOR ADVOCATE SUBMISSION**

*AnneMarie Crean*

Dear Committee Members,

I would firstly like to thank you for your decision to consult further regarding the Retention of Record Bill (2019) and for providing me with the opportunity to make a submission regarding same.

Over the past decade I have had the experience of working with a large population of survivors and their family members. Between 2009 and 2015 I was employed by survivor support group by Right of Place (Right of Place, Second Chance) as Outreach Manager of the Cork and Kerry regions. I founded and was, in a voluntary capacity, the Executive Director of Reclaiming Self (2015-2019) which was an organisation that was established to primarily examine survivor's needs. In this role I authored and co-authored a number of reports on survivors needs: "*Submission to the Oireachtas Education Committee on Caranua Services*" (2016), "*Ryan Report: Follow Up*" (2017) a submission to UNCAT and "*Meeting Survivors Needs: A Position Paper*" (2018) submission to the Dept. of Education on the need for survivor centred consultations. I am now completing a PhD in the School of Applied Psychology, UCC examining survivors' meaning making and understanding of the State's response. As this research is not complete I would like to note that I am currently writing this submission from my experience as an advocate and support worker for the past 10 years and not my research findings which are currently in preliminary stages.

It is from my experience and contact with survivors that the Retention of Records Bill (2019) is likely to cause practical, emotional and psychological problems for survivors. There is concern that the Bill will only further antagonise strained relations between the State and survivors, in particular through the lack of consideration (on part of the State) of the effects the Bill will have on survivors and survivor families:

- I am concerned that the Bill will cause issues regarding family reunification, in particular where a survivor has attended the CICA and/or RIRB. Having worked with many survivors who have not found family relatives due to a lack of accurate record keeping in the past as well as sibling separation within the institutions (a relationship which was actively discouraged), the sealing of records for 75 years would cause further difficulty for access to such files; files which are of paramount importance to many who are still in search of lost family members. The Ryan Report noted the extent of the experiences of abuse on the development of identity and self and some survivors still in search of family have reported a continued process of trauma, a

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sense of loss and liminality (state of uncertainty). I ask that you consider the emotional distress that further difficulty in accessing records will have on a community of survivors who are still seeking information about family relatives.

- I am concerned that the Bill may be viewed negatively in relation to transparency and openness on the part of the State. The Bill maybe viewed as a further structure in the secrecy and shame that resulted in the trauma of generations of children in the first place. The Bill could be viewed in terms of protecting the interests of the Church and State over that of survivors. Moreover, I am concerned that this Bill will prevent the construction of effective knowledge, needed discourse and education regarding the events of the past. While, I am aware that the State has noted that it is for the protection of privacy that records are sealed, it may not be viewed as a protection of privacy by survivors but instead as a form of social control of information which will inhibit society's understanding of the past and thus fail to adequately learn from it. Moreover, survivors are aware that all identifying information can be redacted, thus providing protection while also providing information.
- I am concerned that this Bill removes the autonomy, right, agency and self-determination of survivors over their own history. It will render survivors powerless over their own records and stories. Coupled with the fact that survivors are unsure of the legality of the 'Gagging Clause' or the confidentiality waiver form signed upon receipt of a redress award, as outlined in Reclaiming Self's (2017) UNCAT submission, there is concern that there will be a blanket silence on the past outside of the Ryan Report. Moreover, the State was requested by the UNCAT Committee (2017) to communicate with all survivors who attended the RIRB and ensure that they effectively understood the waiver and gagging clause. This has not occurred.
- There is a substantial difference in the numbers who applied to RIRB and the CICA, and that up until recently the RIRB were still hearing cases for redress. This may indicate that many survivors were not aware of the processes available to them. More importantly some were not ready to disclose their history of abuse experiences at the time CICA was taking statements and testimonies. Many survivors have informed me over the years of their need to be heard, their story told and their voices listened to. In some instances the disclosing of abuse was difficult and the processes were at times traumatising (Reclaiming Self, 2017). Records of testimonies already exist within the archives of State bodies. Making these records publicly available spares survivors the difficulty in retelling their abuse in a form of 'truth telling' process.
- Many survivors were not aware that they could apply for the RIRB and/ or CICA files. Contrary to discourse, a number of survivors did not receive copies of their transcripts or other information from CICA

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and/or the RIRB. Conversely, some survivors have reported that copies of their transcripts were missing important dialogue. This Bill has in fact raised questions regarding access to files that survivors did not know that they could do. While a number of survivors have discussed looking for their files on foot of this Bill, the State must be cognisant of the fact that there are others who may not want access now but may do so in the future. And as such, access to their files, their own history should be a given right.

- I am concerned at the lack of adequate consultation that the State has had with the survivor community regarding this Bill. As there is current preparations with the Department of Education regarding a large scale consultation process with survivors, this is the correct way forward in accumulating survivors' opinions regarding their own files. Survivors themselves are experts in knowing what they need and want and it is only through constructive dialogue that this can be understood. The recent "Report on Initial Consultations (Phase 1) with Survivors of Institutional Abuse on the Themes and Issues to be addressed by Survivor Led Consultation Group" (Walshe & O'Connell, 2019) provides a snapshot of how survivors view the Bill indicating that there needs to be meaningful and engaging discussion with survivors on the matter.
- I am concerned that these records have not been made available to investigative teams to examine allegations of abuse and many abuse allegations have gone without the adequate process of investigation.