**Monteiro, Virginia**

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| **From:** | mariannerleonard@gmail.com on behalf of Marianne Leonard <mleonard@adoptioninstitute.org> |
| **Sent:** | Tuesday, February 19, 2013 10:29 AM |
| **To:** | PHC Testimony |
| **Cc:** | Adam Pertman |
| **Subject:** | Adoption Institute Testimony re: Possible Original Birth Certificate Legislation |
| **Attachments:** | Connecticut OBC Submitted Testimony 2-18-13.doc; 7_14_2010 _ForTheRecordsII_ExSum.pdf; OBC Handout.pdf; Birthmother Handout.pdf; Consequences Handout.pdf |

EVAN B. DONALDSON

adoptioninstitute

Honorable Members of the Public Health Committee
Connecticut Legislature
February 18, 2013
RE: Possible Original Birth Certificate Legislation
Honorable Members of the Public Health Committee:
The Donaldson Adoption Institute is an independent, nonpartisan, nonprofit research, policy and education think tank. We conduct research and analysis on many issues in order to improve adoption laws, policies and practices. This correspondence regarding the possible Original Birth Certificate Legislation is intended to explain the state of professional knowledge on one of those issues: the availability (or lack thereof) of original birth certificates to adopted persons once they reach the age of majority. Indeed, the Adoption Institute has conducted the most extensive research to date on this issue; I am providing you with a hard copy of the Executive Summary of one of our two reports on the subject, and both full publications are available athttp://tinyurl.com/RecordsI and http://tinyurl.com/RecordsII.

I will keep this letter brief; as I'm sure you already have received a great amount of information from all sides. We can give you any additional data you might need or want, would be delighted to address any questions you encounter, and have provided in the attachment more-extensive, research-based written testimony.

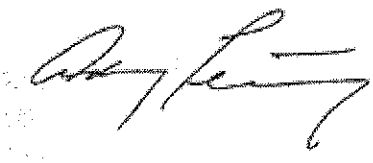
In short, studies consistently show that sealed birth certificates are an anachronism born of society's desire to protect the reputations of adoptees and their birthparents at a time when unwed mothers were severely stigmatized and the children born to them were denigrated as "bastards." Indeed, birth certificates were often stamped with the word "illegitimate." Over time, the cultural rationale has shifted to maintaining the anonymity of birthmothers. However, nearly all available evidence indicates that these women – while sometimes wanting privacy in their families and not wanting their situations

public – overwhelmingly desire some level of contact with or knowledge about the children they bore; that they favor adoptee access to their birth certificates (or, at least, do not oppose it); and, contrary to popular perception, that they were not legally assured of anonymity. Moreover, the vast majority of adult adoptees want the records for a variety of reasons, notably medical and genealogical.

Two additional, critical points: First, a number of states in recent years have enacted laws granting adult adoptees access to their records – with none of the negative consequences that critics had predicted. And, perhaps most important, the unambiguous conclusion from a growing body of research is that greater knowledge about their histories (biological and personal) yields better outcomes for adoptees and their families. That is the principal reason, in both professional practices and new statutes throughout our country during the last decade, the singular trend has been toward increased disclosure. A few adoption practitioners, and organizations representing them, still advocate for closure – sometimes by confusing "anonymity" and "privacy" or by using discredited data on a supposed "link" with abortion – but these practitioners represent a small and shrinking minority in the field.

I hope these comments are useful. Please feel free to contact me at apertman@adoptioninstitute.org or 617-332-8944 if you have questions or need more information. Thank you for your attention and for your important work.

Sincerely,



Adam Pertman

Executive Director

EVAN B. DONALDSON

# adoption institute

February 18, 2013

Written testimony regarding the issue of access to Original Birth Certificates by adopted individuals once they reach the age of majority, respectfully submitted to the Public Health Committee of the Connecticut State Legislature by Adam Pertman, Executive Director of the Donaldson Adoption Institute:

The issue you are examining is far more important than most people perceive it to be, both in practical terms for the tens of millions of Americans that it stigmatizes – I refer here to both birthparents and adopted people – and symbolically, because we keep secrets about things we are ashamed of or embarrassed about. So, when we seal birth certificates, we send the clear signal that adoption is somehow a lesser way of forming a family, because it has something to hide from the very start.

Thank God, we are emerging from the period of our history in which people actually believed that was true, a period in which adoption was a shadowy secret, in which we denigrated nearly everyone touched by this wondrous institution, in which we even turned the words "you're adopted" into an insult. My children are not an insult, and neither are anyone else's, regardless of how they came into a family or why they left one. But some remnants of those dark days remain, and sealed birth certificates are one such remnant.

It is also difficult to learn much about secrets. As a result, many myths, misconceptions and stereotypes have come to be widely accepted – even by some professionals in the adoption field. The Evan B. Donaldson Adoption Institute, which I am proud to head, has no formal ties with any interest group. It is an independent and nonpartisan research, policy and education organization that was created for just one reason: to provide accurate, research-based information for practitioners, policymakers, journalists and others so that we, as a society, can shape better laws, policies and practices to improve the lives of everyone touched by adoption, especially children.

I'd like to start by offering an obvious observation, one I hope you will keep in mind as you listen to the testimony of those who want to retain the status quo. It is simply this: The critics of restoring the right to access records warn that approving this law will set off an array of dire consequences – from ruined lives, to increased abortions, to fewer adoptions, and on and on. Whether the critics are right is no longer the subject of conjecture or speculation. A half-dozen states around the country have done what you are considering doing, while two states (Kansas and Alaska) never sealed their records.

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So now we can see with our own eyes what calamities might transpire when adult adoptees gain access to their original birth certificates. And the answer, very simply, is "none." The newspapers in those very diverse states – from Alabama to New Hampshire, from Tennessee to Oregon, from Delaware to Maine and Illinois – contain no horror stories about stalker adoptees or weeping women. The statistics in those states show no inkling of rising rates of abortion or falling rates of adoption.

All this information, and far more, is contained in two comprehensive, research-based reports issued by the Adoption Institute, "For the Records I" and "For the Records II." They are available on our website; the addresses are http://tinyurl.com/RecordsI and http://tinyurl.com/RecordsII. I have provided the Executive Summary of the latest report, and can provide printed copies of both full publications upon request.

Viscerally appealing arguments can be made by anyone, on any subject. Compelling anecdotes and singular experiences can be produced by any side, in any argument. So, in order to form the best possible laws, policies and practices, it is vital that we examine real evidence, solid research, and broad-based knowledge. Here, in bullet form, are a few things that we do indeed know. I will steer away from any disputed findings, and will stick to only those confirmed by hard data, widely accepted studies, or pervasive experience. Upon request, I am happy to provide supporting materials for the record:

* First, as you may already know, it is a historical fact that adoption-related records – in Connecticut and across the United States – were not closed to protect birthmothers but, rather, to prevent them from interfering with the new adoptive family, as well as to protect adopted children from the stigma and shame of illegitimacy; on a practice level, some social workers also wanted them closed to protect the biological mothers from the stigma and shame of unwed motherhood. The clear legislative and professional intent was to prevent access to those records by the public, not by the parties to the adoption. Historically, the notion that birth certificates were sealed to ensure the anonymity of birth mothers is untrue, irrespective of whether providing anonymity is a good idea or not.

* Second, it needs to be stressed that adopted people are not stalkers, ingrates or children in search of new mommies and daddies. They are simply adults who want the same information the rest of us receive as a birthright. In his book "Roots," Alex Haley wrote: "In all of us there is a hunger, marrow deep, to know our heritage, to know who we are and where we have come from. Without this enriching knowledge, there is a hollow yearning; no matter what our attainments in life, there is the most disquieting loneliness." Research, experience and instinct all affirm Haley's eloquent observation. And adopted people are not exempt from the laws of nature. They love their parents – that is, their adoptive parents – just as much and are just as loyal as if they had been born to them. But a growing majority wants to know about their genetic, medical and cultural roots.

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Adopted persons who obtain their original birth certificates in states where that is permissible may or may not form relationships with their biological kin; those decisions are up to the adults involved, and I believe it should not be the role of government to make the decision for them. Moreover, many if not most adult adoptees do not even make contact; for them, just having the most basic information about themselves is enough; it makes them feel they are treated equally, and it makes them feel whole. The fact is that access to their documents has become an issue that is separate from the question of "search" anyway. That is because, as a result of the Internet and other modern-day resources, many if not most adoptees who want to find their birth relatives can do so with or without their original birth certificates. One other detail relating to adoptees: They are wrong when they complain that they are the only Americans whose records are automatically sealed, and cannot be opened without court approval. In fact, the same process applies to people placed in the Federal Witness Protection Program.

* Third, the notion that a lack of anonymity leads women to have abortions rather than place their children for adoption is fiction. It may sound correct intuitively but, in fact, just the opposite appears true in practice; i.e., the evidence is that women are at least as likely to carry their babies to term and place them into adoptive homes if they believe they will have ongoing knowledge about what happened to those children. The substantiation is in the growing number of states where birth certificates have most recently been unsealed, and it extends much further and for much longer: In Kansas and Alaska, the only states in which they were never closed, there consistently have been fewer abortions and more adoptions than in states that border them or in the country as a whole.

* Fourth, on the critically important question of the birthmothers' desires, the research is unambiguous: Every study I am aware of relating to whether they want anonymity clearly shows that the vast majority do not – and that applies to those who were verbally assured of anonymity as well as those who were verbally assured they would one day have contact with the children they bore; yes, many women were promised exactly the opposite of anonymity, but those promises are seldom publicly discussed.

Depending on the study, between 80 percent and 95 percent of birthmothers do indeed want some level of information or contact with the lives they created. That doesn't mean they want to give up their privacy, but there's a huge difference between privacy and secrecy. And it doesn't mean they necessarily want the information or contact right away – some only want it years later, when they've had time to deal with the personal and emotional consequences of their action or, increasingly often, when they discover they have genetic or medical information they want to share. It is also highly significant that only a tiny percentage take advantage of the opportunity to say "no" to the release of birth certificates and other records in all of the states that have unsealed them in recent years.

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The Adoption Institute has conducted the most comprehensive study to date on birthparents; I would be happy to provide a copy to you upon request, or you may view it at: http://adoptioninstitute.org/research/2006_11_birthparent_wellbeing.php.

Even among those who truly thought they wanted anonymity at the time of placement, the vast majority eventually change their minds. Life is not a snapshot, after all, and few of us would want to live forever with the decisions we made at the age of 17, or even 25. Yet the core argument against allowing access to birth certificates is predicated on the mistaken belief that birthmothers are of one mind – and it will never change. This is not only a fundamental misunderstanding of research and experience, on a human level it assumes a woman can carry a child and then part with it and just "move on," as though she has given away an old record player. That view – essentially relegating women to the role of baby-making machines – pervaded adoption for generations. Thank God, it is changing radically and adoption practices are being reshaped in comprehensive, historic ways as a result. The bottom line is that birth certificates remain sealed in most of our country today because of lingering myths and mistaken stereotypes.

* Finally, denying access to birth certificates contradicts the stated desires of almost everyone directly affected, and it flies in the face of majority opinion throughout the United States. That applies to birthmothers, who seldom choose not to be contacted in states where they can state a preference; it applies to adopted people who – once they are adults – appear to overwhelmingly favor access to their records; it applies to a large and growing number of adoptive parents, a clear majority of whom have already told their children about their origins anyway; and, according to a national survey, it applies to the American public as a whole. The survey, which had a 3 percent margin of error, asked this question: "Should adopted children be granted full access to their adoption records when they become adults?" Eighty-four percent responded "yes."

I respectfully ask you to put aside the aberrational anecdotes, emotional appeals, and corrosive myths on which too much public policy relating to adoption has been based for far too long. Instead, please examine the research. I believe that, after you do, you will come to the same conclusion as that 84 percent.

Thank you very much.

Adam Pertman, Executive Director
Evan B. Donaldson Adoption Institute

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## SETTING THE RECORD STRAIGHT: WHAT WERE BIRTHMOTHERS PROMISED?

**Birth certificates were never sealed to protect birthparents.** Birth certificates of adopted persons were not closed for most of U.S. history. When that practice began in the 1930s, the intent was not to protect birthparents; rather, there were two primary reasons for sealing OBCs: to keep birthparents from interfering with adoptive families and to protect adopted children from the stigma of illegitimacy. There is no evidence that any birthparent was legally given a promise of confidentiality – i.e., they were not guaranteed anonymity in state law or in the relinquishment documents they signed. For instance, legal scholar Elizabeth Samuels (personal communication, July 6, 2009) in her review of 50 relinquishment documents from 21 states, found no evidence that women were given any legal promises of confidentiality. To the contrary, when documents referred to future contact, it was to protect adoptive families from birthmothers' communications, and it was stated that the birthmothers were not entitled to any information about the children they relinquished. Conversely, agencies often provided birthparent identifying information to adoptive parents, in some cases on the adoption decree.

**Anonymity could never be guaranteed.** While adoption agencies and individual workers may have given oral assurances to birthparents of lifelong confidentiality from adoptees, it is clear in retrospect – however well intentioned – that they could not be guaranteed. States have long allowed adoptees to petition the court to gain access to original birth information; some have been granted, and the possibility of that occurring was always present. As early as the 1970s, adoption agency practice began shifting toward greater openness and more connections between a child's original and new families. Today, most domestic infant adoptions involve knowledge of, and often contact among, birth and adoptive family members. Moreover, the sealing of OBCs occurs only when an adoption is finalized and NOT at the time of relinquishment, two events that often take place six months to a year apart. Thus, if a relinquished child was not adopted, or if the adoption was annulled, the OBC was not permanently sealed and replaced with an amended document.

Court cases in states that have restored access to OBCs have considered the interests of both birthparents and adoptees. Courts have held that a) there is no enforceable contractual guarantee to birthparent anonymity from adoptees, b) there is no constitutional right to privacy protecting birthparent anonymity from adoptees, and c) there is no statutory guarantee of birthparent anonymity from adoptees (Doe v. Sundquist, 1999; Doe 1-7 vs. Oregon, 1999).

**Birthparents overwhelmingly support contact.** The vast majority of birthmothers do not want to remain anonymous to the children they relinquished for adoption. Confidentiality for most was not a choice, but an inherent – and sometimes imposed – part of the adoption process. Even those who desired confidentiality at the time of the relinquishment have often changed their minds over time as their life circumstances changed. All existing studies of birthparents report the overwhelming majority are not opposed to being found by their adult children. For example, all 125 interviewed in one major study were open to contact (Ayers-Lopez, Henney, McRoy, Hanna, & Grotevant, 2008) and the Maine Department of Human Resources Task Force on Adoption (1989) found that every birthparent of 130 surveyed wanted to be found.

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There is a significant body of evidence suggesting that the proportion of birthparents who wish to remain anonymous to their relinquished offspring is extremely small. The most visible indication of this reality is the small number who filed no-contact preference forms in states and countries that grant adopted adults access to their OBCs but have a provision for birthparents to register whether they want contact. The table below reports data on no-contact preferences registered in four states where access was granted unconditionally. It also includes the number of disclosure vetoes filed in Delaware, where no OBC is provided if a veto is on file. The number of birthparents filing no-contact preference forms in all of the four states granting unconditional access was 1 percent or less of the number of OBCs released. (It would be a much smaller percentage still of all birthmothers who had relinquished children in these states.) One analysis indicates just 1 of every 2,000 birthmothers request no contact after changes in their states' OBC access laws (AAC, 2009).

### Birthparent No-Contact Preferences and Disclosure Vetoes Filed

| State | Access Results |
|---|---|
| Alabama | From 8/2000 to 7/2009, 4,227 adopted adults obtained OBCs.<br>207 contact-preference forms filed; less than 1 percent said "no" |
| Delaware | From 1/1999 to 10/2006, 695 adopted adults obtained OBCs.<br>16 did not receive complete OBCs as a result of disclosure vetoes. |
| Maine | Since 1/2009, 542 adopted adults have obtained OBCs.<br>8 no-contact preference forms have been filed. |
| New Hampshire | From 1/2005 to 6/2009, 1,224 adopted adults obtained OBCs.<br>12 no-contact preference forms have been filed. |
| Oregon | From 5/2000 to 5/2009, 10,189 adopted adults obtained OBCs.<br>494 birthparents have requested contact, 85 requested no contact. |

While there are undoubtedly some birthparents who have kept their secret from family members and would prefer to continue doing so, they constitute a small number compared to the majority who want to know what became of their children and have no desire to be protected from the possibility of contact. In reality, keeping OBCs sealed does not guarantee protection to many if not most birthparents anyway, since courts can unseal information, states can amend laws, and adoptees without OBCs can successfully search by utilizing the internet or professional searchers.

**Knowledge helps people heal.** Most birthparents have a psychological need to know what became of the children they created, and such knowledge furthers their well-being. Research on birthparents in the era of confidential (closed) adoptions suggests a significant proportion struggled – and sometimes continue to struggle – with chronic, unresolved grief. The primary factor bringing peace of mind is knowledge about their children's well-being (Dominick, 1988; Roles, 1989, Wells, 1993; Field, 1992). So, if one aim of public policy in the realm of adoption is to "protect" and otherwise assist birthparents, it appears that keeping these records sealed – for most of the women affected – accomplishes the opposite of the ostensible goal.

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EVAN B. DONALDSON ADOPTION INSTITUTE

## FOR THE RECORDS II:

## An Examination of the History and Impact Of Adult Adoptee Access to Original Birth Certificates

Policy & Practice Perspective

July 2010

Funded and Prepared by: The Evan B. Donaldson Adoption Institute

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# Executive Summary

At a time when an array of complex adoption-related concerns are being discussed from Haiti to Moscow to Beijing, within the adoption community in our country, one seemingly simple question continues to receive the most consistent, intense attention: Should adopted adults, like all other Americans, be allowed to have their original birth certificates? Indeed, for over a generation, no other adoption issue has generated more debate or caused greater division.

Today, more efforts to restore adult adoptee access to original birth certificates (OBCs) are being mounted than ever before. In the three legislative sessions that have begun since the Evan B. Donaldson Adoption Institute's November 2007 publication of "For the Records: Restoring a Legal Right for Adult Adoptees" (of which this report is an update), OBC legislation has been introduced from coast to coast. In the 2009–2010 sessions alone, lawmakers in at least 11 states considered the issue – and in at least one, Illinois – they have enacted a statute in recent weeks significantly expanding OBC access, making theirs the seventh state to do so in the last decade. During the same period, Massachusetts has implemented a narrower OBC access law, while activists in several more states, including New Jersey and Rhode Island, have been organizing, fund-raising, and taking other steps intended to result in yet more legislation.

Though support is clearly growing for the "open records" movement, as it is often called, proponents are hardly declaring that victory is on the horizon. Most of their efforts have been unsuccessful, and many of the OBC laws that have been enacted are compromises that grant access to some adoptees but not to others; these compromises open an emotional divide among advocates on whether they are championing the majority or betraying those left behind.

A major reason such compromises are offered – and why more states have not enacted access legislation – appears to be that much of the debate has been muddied by misunderstandings about the history of the issue, misconceptions about the parties involved, and mistaken concerns about the consequences of changing the status quo. It is commonly argued during the legislative process in every state, for instance, that OBCs are sealed to protect the anonymity that birthmothers were promised, and that changing the rules now would undermine their lives and be harmful in other ways (such as increasing the number of abortions). An examination of the research and other evidence, however, shows that all those assertions are flawed or incorrect.

This paper examines the most current evidence related to restoring adult adoptee access to original birth certificates, updating the Adoption Institute's 2007 *For the Records* report.

A lengthy examination and analysis of the arguments on both sides of the debate leads to these primary findings:

- **Barring adopted adults from access to their original birth certificates wrongly denies them a right enjoyed by all others in our country, and is not in their best interests for personal and medical reasons.**
- **Alternative solutions to providing adopted adults access to their OBCs, such as mutual consent registries, are ineffective and do not adequately address the needs of adopted persons.**
- **The overwhelming majority of birthmothers do not want to remain anonymous to the children they relinquished for adoption and support (or do not oppose) those children's access to their OBCs.**

- **Providing adult adoptees with access to their original birth certificates does not threaten the integrity of adoptive families or the institution of adoption; indeed, the evidence suggests that the opposite is the case.**
- **In other countries and in U.S. states that have restored adopted adults' access to OBCs, or never sealed these records at all, there is no evidence of any of the significant negative consequences critics predict.**

Based on these findings, the Adoption Institute recommends significant changes in current adoption law and policy in order to restore adopted persons' rights to information about their origins and heritage – and to achieve equality for the members of all families, regardless of how they are formed.

## Recommendations

- ***Every state should restore unrestricted access to original birth certificates for all adult adoptees, retroactively and prospectively.*** The experiences of many other countries, of U.S. states where birth certificates have never been sealed from adopted persons, and of those states that have restored access, all indicate that there are few if any problems when access is granted. There is no significant legal, experiential or factual rationale for denying adopted adults the right to access their OBCs – a right that is enjoyed by all non-adopted Americans. Allowing access with the provision for contact preference forms is a practical solution that affords birthparents a greater opportunity to express their wishes – and therefore greater "protection" than they currently have with sealed records.
- ***State laws that provide access to original birth certificates to a limited number of adult adoptees should be amended to enable them all to obtain these documents and thereby be treated equally.*** Allowing some adopted citizens access while denying it to others is inequitable on its face. The evidence in states that place restrictions on who may obtain OBCs is the same as it is in states that allow universal access; i.e., none of the predicted negative consequences occur. So there is no substantive reason to prevent an expansion of their laws to include all adopted persons once they reach the age of majority.
- ***No agency, attorney, social worker or other adoption professional should promise birthparents that their identities will remain concealed from their children.*** There is no constitutional, legally enforceable "right to privacy" for birthparents from the children they created. Some states that sealed OBCs in the past have opened them and more are likely to do so in the future. Moreover, courts may open records upon petition and, finally and most pointedly, it is becoming increasingly possible for birthparents (among others) to be found via the internet, through search professionals, and with other modern resources. As a consequence of all those factors, it is clear that anonymity cannot be assured with any certainty; promises of lifelong confidentiality are therefore contrary to best adoption practices.
- ***A national adoption registry should be implemented to enable all adopted persons and their birthparents, no matter where they reside, to participate.*** Registries should not ever be viewed as an alternative to access to OBCs, and the evidence is clear that state-specific mutual consent registries are generally ineffective. A well-publicized national registry, however, would allow adoptees, birthparents and other family members to find each other across state lines, thereby mitigating some current problems and playing an important role until all states restore the right of adopted adults to access their original birth certificates.
- ***Confidential intermediary services should be available throughout all states, even after original birth certificates access is restored.*** Many if not most adopted persons, birthparents and other involved parties prefer to search and make contacts themselves – but some want or need help. Confidential intermediaries can be valuable resources to provide

guidance and support for those who are unsure about making contact to obtain information or to arrange a reunion. Ideally, these services should be either subsidized by the state or made available at a very reasonable cost to participants.

## Conclusion

Some opponents of restoring access to original birth certificates cast adult adoptees' desire for this basic information about themselves as a matter of curiosity, a simple interest that can be satisfied through other means, while others express seemingly substantive concerns about the implications of altering current law. Some proponents of unsealing OBCs focus on search, reunion and medical information as the key issues, while others say the bottom line need not include any of those issues because the debate is really about equal rights and social justice.

Wherever one stands, this much is clear: The laws on the books in most states do not benefit the vast majority of the affected parties, and therefore should be changed. Modern adoption practice, with its emphasis on openness, honesty and family connections should be the operating model. It is time to end the secrecy that has not only resulted in shame and stigma for nearly everyone concerned, but also has undermined the institution itself by sending a signal from the very start – at the time a birth certificate is issued – that adoption has something to hide.

EVAN B. DONALDSON

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## SETTING THE RECORD STRAIGHT: WHAT ARE THE NEGATIVE CONSEQUENCES?

**OBC access does not precipitate conflict.** Scholars' reviews of states and countries where original birth certificates can be accessed indicate none of the adverse impact predicted by opponents occurs. In an overview of the social impact of unsealing adoption records in the U.S., Great Britain and Australia, E. Wayne Carp found "a vast gap exists between the *fear* by birth parents and adopted adults that their privacy will be violated and the *reality* that few or no offenses are committed" (2007, p. 29).

**The reality in America.** Kansas and Alaska have never sealed their adoption records, and there is no evidence this has created problems in either state. In states that have restored OBC access, opponents' concerns have not materialized. For example, after examining the first five years after Oregon restored access, Carp reported that there were no reports of a birthmother's privacy being violated, of a family being hurt or shattered as a result of the release of an OBC to an adult adoptee, or of any violation of a no-contact preference request. The state's adoption program director concluded, "We here in Oregon have learned ... that in the crafting of public policy, the fears of a few ... cannot necessarily be generalized to all of the public that is affected" (Busharis & Hasegawa, 2005).

**The reality in other nations.** Triseliotis' (1992) research on the impact of OBC access worldwide found that "open records" have been the rule in Scotland since 1930 and in England since 1976, with no evidence of misuse or abuse by adopted persons, and the experience of countries such as Finland, Israel and New Zealand – where OBCs are accessible – is similar. Carp (2007) found the same in New South Wales, Australia. Other nations that provide OBC access include Germany, the United Kingdom, Belgium, Holland, Sweden, Norway, Denmark, Iceland, some Canadian provinces and Taiwan.

**OBC access does not increase abortion rates.** There is no evidence that allowing adopted adults to access their OBCs causes women to choose abortion over adoption because the former is anonymous. Data in states where adult adoptees have always had OBC access (Kansas and Alaska), in those that have amended their laws to allow access, and in those that keep OBCs sealed do not show a discernible relationship with abortion rates. The rates in Kansas and Alaska are lower than the national average, and states that have reopened OBCs have lower abortion rates after access than before. This trend comports with England and Wales, where adoption records have been opened (Affidavit of Frederick Greenman, 1996). There is limited information about any relationship between the decision to have an abortion and to relinquish a child for adoption; however, in a survey of 1,209 women and in-depth interviews with 38 women about their reasons for choosing abortion, none noted the promise or lack thereof of confidential adoption as a factor (Finer, Frohwith, Dauphinee, Singh & Moore, 2005).

**OBC access does not decrease adoption rates.** Comparative state data on rates of infant adoptions: per 1,000 abortions, per 1,000 live births and per 1,000 non-marital births do not support the proposition that OBC access will result in fewer adoptions. The infant adoption rates in Kansas and Alaska, which have never sealed OBCs, are much higher than the national average. Adoption rates vary markedly from state to state. Where OBC access has been restored prior to 2002, two states had adoption rates higher than the national average and two had lower ones. In comparing adoption rates in five states with access (Kansas, Alabama, Delaware, Oregon and Tennessee) to bordering states without access (Nebraska, Georgia, Pennsylvania, Washington and North Carolina), those states with access had higher adoption rates. (NCFA, 2007; Evan B. Donaldson Adoption Institute, 2010).

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## SETTING THE RECORD STRAIGHT: WHY IS OBC ACCESS IMPORTANT?

**An overview.** Advocates for adult adoptees' access to their original birth certificates (OBCs) believe that adoptees have a fundamental right to know core facts about themselves – facts that further their knowledge about their medical and genealogical histories, as well as about their basic identities. They believe that adoptees deserve equality with, and should receive the same rights and privileges as, their non-adopted peers. They assert that denying adoptees access to their OBCs discriminates against them solely on the basis of how they entered their families. The following public policy considerations support unrestricted access.

**OBCs and positive adoptive identity.** Over the course of their lives, adopted individuals face the challenge of exploring the meaning of adoption and integrating it into their being. All adoptees search for answers to these basic questions and other related ones. The type of information they need and want varies and can change at various periods in their lives. Those who feel a strong need for information but cannot find satisfactory answers can feel profound powerlessness and can experience emotional struggles that are detrimental to their mental health and life satisfaction (Brodzinsky, et al., 1992; Triseliotis, 1973). They often want this information not only to learn important things about themselves, but also to pass on to their children and grandchildren.

**Vital medical information.** Another reason many adopted adults seek their OBCs is to learn their birthparents' names, so they can expeditiously obtain up-to-date, and ongoing, medical information. Medical and genetics experts have recognized family history as the strongest predictor of risk for many common illnesses such as heart disease and diabetes, among others (Collins & McKusick, 2001). Adoption agency collection of birthparent medical information historically has been inconsistent and incomplete, and has captured only a "snapshot" of the data provided at the time of relinquishment. That means, at best, the information is 18 years old when the adoptee reaches the age of majority.

Many federal public health agencies agree that family medical and genetic data aids in the prevention, early detection and treatment of thousands of inherited diseases. These data can be of vital importance in the diagnosis and treatment of genetically based conditions and illnesses, and insurance companies often will not pay for specific screening tests unless a genetic risk is identified. Knowing family medical history is also critically important to prevent and treat chronic diseases such as cancer, heart disease and diabetes. Over 6,000 genetic and rare diseases afflict more than 25 million Americans, and about 30% of early deaths are linked to genetic causes (NIH, 2009). In addition to informing their own and their children's medical treatment, adoptees also seek biological relatives to explore opportunities for transplants and other medical treatments that are most effective with donors who are close kin.

**Professional organizations' research and guidance.** As early as 1971, the American Academy of Pediatrics' Committee on Adoptions recognized: "The most helpful thing a human being can learn in life is to be conscious of himself as an individual, and to be aware of who and what he is. Determining identity is a difficult process for some brought up by his natural parents; it is more complex for the individual whose ancestry is unknown to him" (p. 948). The Child Welfare League of America, which sets standards for best practices in adoption, advises: "The interest of adopted adults in having information about their origins has come to be recognized as having critical psychological importance as well as importance in understanding their health and genetic status. Because such information is essential to adopted adults' identity and health needs, the agency should promote policies that provide adopted adults with direct access to identifying information" (2000).

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The Adoption Institute's (2009) study of identity among 468 adult adoptees – the most extensive such research to date – found that adoption is an increasingly important factor in adoptees' lives. When asked to cite the experiences or services that were most helpful in achieving positive identity, U.S.-born respondents rated contact with birth relatives as most important; the vast majority (86%) had taken steps to find their birth families, and a sizable minority (45%) had made contact. This study and an earlier review of other studies (Muller & Perry, 2001) indicate that at least half of adopted adults search for identifying information and/or to make contact. In a primary adoption study, nearly three-quarters of adoptees felt they "need[ed] identifying information to complete their sense of identity" (Sachdev 1989).

**Court approval, registries, confidential intermediaries: not effective substitutes to OBC access.**

- **Court approvals.** In about half of the states and Washington, D.C., the only mechanism for adopted persons to obtain their OBCs is to petition the court for its release, contingent on a judicial finding of "good cause." Without standards defining "good cause," adopted individuals' ability to obtain their OBCs can result in arbitrary and inequitable treatment. Some courts have accepted psychological need as constituting good cause, while others have determined that even extreme medical need is insufficient. In responding to petitions to unseal records, courts weigh the demonstrated need of the adoptee-petitioner against the presumed interests of the birthparent, who is not a party to the proceedings and whose desires are therefore unknown. Courts often conclude the birthparent's presumed interests outweigh the adoptee's stated need.

- **Mutual consent registries.** Mutual consent (or "passive") registries allow adopted persons and birthparents to express their willingness to share information and/or make contact, but they have flaws that make them ineffective. If only one party registers, for instance, the state does not typically seek the other to determine his/her interest in releasing or receiving information. These registries are also usually poorly funded and understaffed (Kuhns, 1994; Lum, 1993; Strasser, 1994; Mitchell, Nast, Busharis & Hasegawa, 1999). A survey of state registries reported: "Locating a staff member knowledgeable about registry operations in at least half of the 21 states surveyed required between 8 and 10 phone calls. ... Only 3 states had made any noticeable effort to actively promote their registries" (Mitchell, et al, 1999, p. 33). They also make few matches: reunion rates through them range from "a high of 4.4% to a median of 2.05%" (Samuels, 2000–2001, p. 432). In a 1998 survey, 14 of 18 states had match rates of less than 5% (Busharis, Nast, & Micheli, 1999). Registries are also state-specific, so they cannot facilitate matches across borders, and require adopted persons to know the date and place of their birth (the latter of which is sometimes altered on their amended birth certificates).

- **Active registries/confidential intermediaries.** Active registries requiring an intermediary to contact the other party when one party registers are somewhat more effective than passive ones. A request for information triggers efforts by an intermediary to locate the sought-after person and to determine if he/she is amenable to identifying information being exchanged. In most states, however, they are not well publicized, depend on the program's resources, and make only one attempt at contact. Because information is not shared unless the other party agrees, the seeking party may be left without recourse if others cannot be found or do not want to pursue the matter. The underlying problem with mutual consent registries and confidential intermediary programs is the lack of control experienced by the registrants (Cahn and Singer, 1999), as well as the reality that they do not work for many. In addition, none of the alternatives to OBC access address the issue of achieving equal rights for the millions of people affected.

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