

The Sealed Record Controversy:

adoption reform in New Jersey

by
Marsha Riben

New Jersey, like New York and many other states, is currently questioning the present system of sealed adoption records. Assembly Bill 2051, which died in committee, has been reintroduced by Byron Baer under the new number AB 228.

It is estimated that 5 to 9 million Americans are adoptees. Each has two adoptive parents and two biological parents. In other words, at least 25 million people's lives are directly touched by the issue, or between 10 and 20 percent of the population.

There are few of us who have not been exposed to the debate between the right of adult adoptees to the information contained in their original birth records versus the right of the birth parents to anonymity and confidentiality. There is hardly a daytime soap or an evening series that has not had an adoptee in dire need of a kidney transplant, or one who is trying desperately to locate her unbeknownst natural parents.

The Proposed legislation thus promises to touch many lives on a very important and touchy subject.

Why were the records ever sealed?

Adoption has not always been cloaked in secrecy. It used to be that a child's adoptive status was common knowledge to both the child and the community.

However, adoption used to be a family matter; a child whose parents could not raise her was cared for by a family member, a friend of the family, or a member of the parish. It wasn't until "outsiders" became adopting parents that the matter of a child's "illegitimacy" became a thing to be hidden in secrecy.

Thus, in the mid 1900's birth certificates and court records were sealed. New Jersey sealed its records in 1940; adoptees in this state born prior to 1940 have access to their original records while those born afterward do not.

When an adoption is finalized in New Jersey today (as in most other states), the original certificate is sealed by the court. An amended certificate is issued. It looks like any other, but it lists the adoptive parents as the parents to whom the child was born.

Why would an adoptee search for her birthparents?

An adoptee's reasons for wanting to know her birthparents are as individual as each adopted person. However, adoption experts have found that the motive is rarely, if ever, based on the

amount of love in the adoptive home or the closeness of the family. In fact, adoptive parents who have assisted their children in searching for their origins have found that the process has brought them closer together rather than further apart.

Many adoptees search merely because they feel it is their inalienable right. They feel they have been made victims of a secret pact. In no other situation in this country does a contract signed over a third party, without that person's knowledge or consent, bind that person for a lifetime.

Others state feeling stuck at various points in their lives, unable to go forward until they can go back. Still others speak of feeling incomplete, not whole, as if a piece of the puzzle were missing.

adoptees take advantage of them. For, whether sealed or not, the decision to open "pandora's box" is not an easy one.

Many adoptees feel they have already been rejected; they wish to avoid any further hurt. Many are concerned for the feelings of their adoptive parents (it is not uncommon for an adopted person to wait until after the death of her adoptive parents before beginning a search.) And, under the sealed adoption system, the fact that it is somehow "illegal" to search surely adds to the already existing pressures, making it even more taboo.

Despite these obstacles, adoptee search groups, such as ALMA, claim that 10 to 20 percent of adoptees desire knowledge of their heritage. (Opponents give the figure at 5 percent.)



P.O. BOX 627M, MORRISTOWN, N.J. 07960

ADOPTEE'S LIBERTY MOVEMENT ASSOCIATION

Betty Jean Lifton, author of *Lost and Found* and *Twice Born*, found that female adoptees express increased concern over genetic factors when they marry and/or reach child-bearing age. In fact, with some 3,500 known genetically transmitted diseases, the need for accurate and updated medical information is probably the major concern of adopted persons. Male adoptees often express hostility that comes to be generalized towards women. Others simply long to look at a familiar face, to feel connected to the human race.

Another very real concern of adoptees is the fear of unknowingly committing incest. Far-fetched though it might sound, it is indeed a very real possibility. There have been reported cases of mothers marrying sons, and sisters and brothers discovering their biological relationship only after becoming engaged to marry. It is for this very reason — fear of incest — that Israel opened its records in 1960.

Clearly, not all adoptees desire to search for their roots. For example, in England, as in many other countries where the records are unsealed, few

Who opposes access?

Primary opposition to disclosure comes from adoptive parents lobbying groups, such as the New Jersey Committee for Adoption. Many adoptive parents, they claim, fear that open records will relegate their role to that of long-term foster caregiver, a condition which most professionals agree is not desirable.

While couples opt, for varying reasons, to become parents through adoption, a large majority have already undergone years of mental anguish over infertility. Many have suffered emotionally and financially draining treatments and, in some cases, surgeries. They are further dehumanized by agency social workers who poke and prod, making prospective adoptive parents feel that they must "prove" their worthiness as parents. Is it any wonder that they would want to hold on dearly to what they worked so hard to obtain?

Though justifiable, one wonders how realistic their fears and concerns really are. Parental love, both biological AND adoptive, is by nature strong and

generally protective. This is quite natural. Arthur Sorosky, Annette Baran and Reuben Pannor, noted authorities on the subject of adoption and authors of *The Adoption Triangle*, have said: "Probably the most important overall finding is that adoptive parents do not lose their

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children to birthparents. Nothing changes the fact that adopted children are bonded to their adoptive parents for the rest of their lives." They are the only true psychological parents.

Sorosky, Baran and Pannor further found that "the feelings of the adoptees towards their adoptive parents become more concretely positive and assumed a new meaning even when the reunion resulted in an ongoing relationship between the adoptee and the birthparents."

Martha Hauck, a New Jersey adoptive mother who helped her daughter locate her birthmother, said: "Just as a mother can love more than one child, so can a child love more than one mother."

What of the birthparents' rights?

In one particular study of birthmothers, Sorosky, Baran and Pannor found that 46% of the surrendering parents thought about the child on her birthday; 82% wondered about the child's appearance and well-being; 82%

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desired reunion, though most would not initiate it; and 95% wanted to update the files about themselves. All this, despite claims that extreme secrecy is necessary to protect the anonymity of the birthmother!

Concerned United Birthparents, a national birthparent support group with some 2,100 members, as well as local birthparent groups, all unequivocally support open records. It is interesting to

note that although most of the opposition to open records has been based on preserving the anonymity of the birthparents, this opposition has come from the adoptive parents, not the birthparents.

Confidentiality is something most birthmothers, who are often young and frightened, never asked for nor presently desire, according to Mary Anne Cohen of the New Jersey-based search and support group Origins. Rather, it was something forced upon them.

While some birthmothers surely do desire such protection, it is a sad fact that if any such promises of anonymity were made, in most cases they were made verbally. What a surrendering parent signs in writing is a waiver of her

ORIGINS

AN ORGANIZATION FOR WOMEN WHO HAVE LOST CHILDREN TO ADOPTION



parental rights — nothing more. And, since she gets nothing in return, not even the promise of confidentiality, this is not a true contract, according to Red Bank attorney Harold Cassidy.

In looking at the original reasons the records were sealed in New Jersey, one concludes that protection of the birthparents was never the intent of the law. The records were sealed not to keep the 3 parties from one another but to keep outsiders out. Therefore, in opening the records to adult adoptees, nowhere is the original intent of the sealing lost.

what about compromise?

Adoptive parents who are up in arms over the issue of open records — and, while it is not all, it is a majority of them — have come up with what they believe to be a compromise. They suggest a state registry (AB 1773) where all parties to the original adoption, if they all agree, could be put in touch with one another.

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U
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CUB'S DOVER OFFICE
595 CENTRAL AVENUE
DOVER, NEW HAMPSHIRE 03820



On the surface, this sounds just fine. No one would know anyone else's identity unless that person wished it disclosed. However, opponents to the proposal sight several faults.

"Probably the most important overall finding is that adoptive parents do not lose their children to birthparents. Nothing changes the fact that adopted children are bonded to their adoptive parents for the rest of their lives."

For one, a woman who surrendered her child here in New Jersey and then left for another state would have to know that such a law exists here. If she didn't register because she didn't know it was an option, she could be denied pertinent information. In fact, an adoptee could be given no information at all simply because her parents had predeceased her.

Further, the registry bill requires that the adoptee be 25 years of age, that all her siblings be 18 years of age or older, and that the birthmother, birthfather and adoptive parents register their desire to be located.

Is this not simply a clever ruse to keep the records sealed from the adoptee? How many birthfathers even know that they indeed have a child?

And if the mother and child wish to meet, why should the father's lack of consent keep them apart? To ask that all 5 parties all consent (and that all agree to counseling at their expense) is analogous to asking that a husband and wife, his girlfriend and her boyfriend all agree to a divorce settlement which cannot be granted until all their children reach the age of majority.

Other effects

More opposition raised to the unsealing of adoption records comes from groups such as Birthright, who fear that such action would decrease adoptions and escalate abortions. Their contention is that pregnant women would opt for abortion rather than risk the possibility of future intrusion into their lives. Further, they fear that prospective adopting couples would be afraid to adopt, having lost the guarantee of confidentiality.

Statistics are scant to prove or disprove these projections. In Kansas and Pennsylvania, however, where the records have been unsealed, health officials report no correlation whatsoever between the abortion rate and the unsealing of adoption records. And, with the number of prospective adoptors far outweighing the number of available babies, one wonders what harm there would be if some were "scared off."

In fact, it is the current policy of many agencies in New Jersey, such as DYFS,

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to tell prospective adoptive parents that they cannot guarantee that records will remain sealed. Many social workers, such as Lorraine Wilkerson of DYFS, advise newly adopting parents to consider open records a very real possibility in the future and to weight their decision to adopt accordingly.

Adoption laws were created in a time when the mores of our culture judged heavily against illegitimacy and single parenthood. This is clearly no longer the case. Betty Jean Lifton found that

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adoptees are over-represented 10-fold among people in therapy with respect to the frequency in the overall population. That is, although only 2% of the population is adopted, 20% of those in therapy are adopted.

Elizabeth Morrison, reporting for the New Jersey Reporter, sums up the adoption issue as "a reform whose time has come." New Jersey should seriously consider joining Alabama, Kansas, South Dakota, Wisconsin, and neighbor state Pennsylvania in granting rights to adopted citizens.

ALMA: Adoptees Liberty Movement Association, PO Box 627M, Morristown NJ 07960.

Origins: PO Box 105, Oakhurst, NJ 07755.

Concerned United Birthparents: 595 Central Avenue, Dover, New Hampshire 03820.

Marsha Riben is a free-lance writer and psychology student.

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