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## A Walk into the Past: Access to Adoption Records

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## A Walk into the Past: Access to Adoption Records

I am a statistic. I am one of the 2.5% of children in the United States who are adopted (“Off and Running” par. 1). Growing up without knowing whom my DNA comes from and the woman who carried me for nine months has had a detrimental effect on my mental health and has caused me to grow up with identity issues. I was adopted through an agency under what is called a closed adoption. A closed adoption is an adoption process where there is no interaction or contact between the adopted child and birthmother; there is also no identifying information released to either of the families involved. There are adoptions that are entirely open, called open adoptions, where the child is allowed to interact with the birth family, but their original birth certificate is still not released. Thousands of kids are adopted every year; during 2001, in the United States, there was a total of 1.5 million children were adopted; a majority of these kids have no knowledge of who their parents are or where they come from (“Off and Running”). The state legislatures believe that by restricting access to these records they are protecting the welfare of the adoptee, allowing productive relationships to form between the adoptee and the adoptive parents, and creating a way for the birthmother to rebuild her life without the adoption becoming public information (Kuhns 3-4). Denying adoptees their records discriminates against a select group of people. The people who believe that the records should stay sealed are only addressing the side of the birthmother and her right to privacy; they never discuss the rights of the adoptee. Often, they believe that because the individual was placed in a better home, that they have everything that they need to live a happy, better life. Sealing adoption records was originally created to protect the adoptee, adoptive parents, and birth mother during times when “society was not generally well-accepting of out-of-wedlock pregnancies” (Kuhns 12). Due to the stigma of illegitimacy, many women who became pregnant during relationships that were out of

wedlock or even affairs, felt pushed to the option of adoption. Because of these issues, adoption records should be open to the adoptee at the age of eighteen. They should have the right to access their birth records, medical history, and have an understanding of their cultural identity, just as every American does.

Most Americans would not give a second thought about their birth certificate because they do not have two separate birth certificates, the original and a state-issued certificate. Most people only have their original birth certificate that they always have access to. For adoptees, the original birth certificate is not just a piece of paper; it is the key into the past. Even though birth certificates are kept locked away, mainly because of the confidentiality that was promised to birthmothers, a majority of birthmothers agree that adoptees should have access to their original birth certificate (Dusky). New Jersey and Connecticut have currently compromised with this argument by allowing adoptees to access their birth certificates but are also respecting the privacy of the birthparents by allowing them to redact their names from the birth certificate if they would like (Brennan). Giving birthparents this option allows them to keep the anonymity that was promised by the state. Legally, the idea of anonymity for the birthmother is murky. Elizabeth J. Samuels, a law professor at the University of Baltimore, fights for adoptees' rights and has studied the adoption documents from the 1930s to the 1990s. She claims that she has never found any evidence that explicitly promises the birthmother anonymity (Brennan). If Samuels is right, then this refutes the states' argument that they cannot unseal records because they promised the birthmother anonymity. Adoption is a legal process, which means that there should be documentation for the promise of anonymity, but if there is no legal proof of this promised anonymity, then states are not breaking any legal bonds to the privacy of the birthmother. State legislatures and courts make the assumption that the birth parents wish to

“sever all ties with their adoptee and forget about the entire experience” (Kuhns 17). Because this assumption is being made, they are making a decision that infringes on the adoptees’ rights.

Many state judges and officials claim that unsealing the records of adoptees would infringe upon the right of the birthmother, yet they seem to fail to understand how denying adoptees access to their medical history and birth records infringes upon their right to their documentation (Lyons). The Adoptees’ Liberty Movement Association filed a federal lawsuit, in 1979, arguing that “under the First, 13th and 14th amendments” adoptees had a Constitutional right to “the information contained in the adoption records” (Lyons par. 116). Sadly, courts ruled that adoptees did not have “the fundamental right to learn the identities of their birth parents” (Lyons par. 116). Most people have little understanding of the impact of this decision on adoptees. Some people insist that medical history and genetic information can be obtained through alternative ways, like contacting the agency where the medical records are filed or through DNA testing. Yet, relying on a sheet of paper that a young, scared woman filled out only with what she could remember about her family — this very limited source is not useful or beneficial to the adoptee. Most people can learn about their medical history and genetic information, yet adoptees’ right to understanding their past can be legally barred. There also seems to be a consensus among the uninformed that unsealing the records would cause harm and pain to birthmothers. However, from Lorraine Dusky’s point of view, who gave up her child in 1966, just having the knowledge that her child was doing well in a loving family would have been enough and put her worries to rest (Dusky). When she finally made contact with her daughter, Jane, and the parents, 1981, Dusky learned that her daughter had epilepsy, had almost drowned twice to seizures, and had an extreme learning disability (Dusky). Learning all of this after the agency had told her that her child was happy and loved, tore apart Lorraine’s heart.

Tragically, Jane's parents also informed Lorraine of the frequent calls and letters from Jane's doctor trying to contact her for medical information (Dusky).

Dusky's experience, in learning of her daughter's illnesses and disabilities, shows that access to medical records is not only helpful to the adoptee, but it is vital. In another case, after having a precancerous mole removed, Maureen Sheridan, a 38-year-old adoptee, began her search for her biological mother (Brennan par. 1). She states that her intentions were to find out her medical history because her two sons have previously had medical scares (Brennan par. 3). Even though medical records do not specifically state whether an individual is prone to get a mental or physical illness, they do encourage the individual to be cautious and take steps to avoid these illnesses. In another example, in 1997, John, an adoptee, started having abdominal pains and disregarded them; sadly, he later died in the emergency room because he waited too long to seek treatment (Lyons par. 13-14). His brother, Lokey, stated that it was possible that if they had been given access to their records, John could still be alive (Lyons par. 13-14). Individuals are constantly asked for medical history of some kind for one reason or another. Yet many adoptees must constantly respond, "I am adopted, and I do not have that information."

Access to medical records is only one issue for many adoptees. Many also struggle with their cultural identity. In many families, there are traditions that link back to their origins; however, in a family that has adopted children it becomes difficult for the adoptive parents to decide whether or not to incorporate their personal heritage into their child's life. In an interview with my mother, Amy Beck, she recalls a situation with her own mother, Sally, when I was only a few years old. Sally asked my mother why she did not celebrate her Irish heritage with her kids, and the only thing my mother could say was, "My two kids are upstairs asleep and I cannot even tell them about their heritage. Why would I celebrate my own heritage if they cannot know

about theirs?” (Beck). By saying that, she was expressing complications that arose from not knowing anything about the heritage of her children. She felt she did not have the right to celebrate her heritage if her own kids did not have the right to know theirs. According to Dusky, the adoptee will always have feelings “of not having control over a situation,” and they will always have issues of anger and abandonment (Melillo par. 20) Most people become curious about their heritage at one point or another, yet children and adults who are denied access to information struggle with the question, “Who am I?” They must grope for answers to questions such as “Where do my genes come from?” and “What makes me unique?” This absence of information causes children to grow up always wondering and never being given a straight answer. I know from my own experience that being denied this connection to my past can cause adoptees to continue to feel like their life is being manipulated by someone else’s decision.

Many adoptive parents do fear the time when their adopted child starts asking questions because they may interpret this interest as “an indication of their failure as parents” (Kuhns 20). This idea, like many issues surrounding adoption, can be difficult to understand for those with no firsthand adoption experience. In response to the inevitable questions from adopted children, most parents, like my own, have stated that their fear was not because they believed they had failed as parents, but because they worried about the emotional and mental stress it would cause me. There are adoptive parents who oppose the opening of records, which is understandable while the adoptee is a minor (Kuhns 22). However, minors eventually become legal adults, able to make decisions for themselves, so regardless of anyone’s preference, access should be legally granted at the age of eighteen. The fear is that opening adoptees’ records would infringe upon the rights of the birth parents in the same way that sealed records infringe upon the right of adoptees. This issue has been addressed in some states that have created consent statutes where

birthparents can remove their names from the records, while still providing information of the adoptees heritage. By asking for consent, these states are respecting the right to privacy of the birth mother and the right to birth records of the adoptee.

Adoption provides the possibility of a better life for countless people. And while the process is never simple, one thing is clear: The right to birth records is a fundamental right to every citizen of the United States. Adoptees should be granted the right to know who their parents are, where they come from, and why they are who they are. Legal prohibitions against opening medical records for adoptees discriminates against a group of individuals who had no control over the situation they were put in. It was not their choice to be adopted; therefore, the laws surrounding the privacy of the birthmothers should not penalize the adoptee. Like birthmothers, when it comes to privacy, adoptees should have the guaranteed right, at the age of eighteen, to access their medical records, birth certificate, and genetic information. Adoptees like me do not want to think of ourselves as statistics. We are citizens who need to understand where we came from. We have this fundamental human right.

## Works Cited

- Brennan, Emily. "New York Adoptees Fight for Access to Birth Certificates." *The New York Times*. The New York Times, 15 June 2014. Web. 14 Mar. 2016.
- Dusky, Lorraine. *Birthmark*. New York: M. Evans, 1979. Print.
- . *Hole in My Heart*. N.p.: Leto Media, 2015. Print.
- Kuhns, Jason. "The Sealed Adoption Records Controversy: Breaking Down the Walls of Secrecy." *Golden Gate University Law*. Digital Commons, 16 Sept. 2010. Web. 4 Apr. 2016.
- Lyons, Christina L. "Adoption Controversies." *CQ Researcher* 10 Sept. 1999: 777-800. Web. 17 Mar. 2016.
- "Off and Running Fact Sheet." *PBS*. PBS, n.d. Web. 24 Mar. 2016.