

EVAN B. DONALDSON ADOPTION INSTITUTE

Safeguarding the Rights and Well-Being of Birthparents in the Adoption Process

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Executive Summary

Each year in the United States, approximately 14,000 women and a growing number of men make an agonizing parenting decision that they hope will provide their children with the best possible future: They place their babies for adoption. At the same time, policy-makers across this country each year propose and implement measures meant to improve adoption, often based on their perceptions of what these parents want and need. Historically and through the present day, however, adoption-related laws, policies and practices have been made without the benefit of solid research that might answer the most basic, underlying questions: What are the characteristics of mothers and fathers who relinquish their infants for adoption? Why do they choose this path? And how can their needs and rights best be served and protected?

Due largely to the secretive nature of adoption's past, the state of knowledge about infant adoptions in the 21st century is deficient, at best. There is no broad, concrete body of work on who these women and men typically are, what forces shape their decisions, or how adoption impacts the rest of their lives. We do not even know precisely how many babies are placed for adoption in this country annually. Indeed, though domestic infant adoption is what most people think of when they hear the word "adoption," it is the least common type in the U.S. today (after adoption from foster care, from abroad, and by step-parents), and it is the type we know the least about.

This study by the Evan B. Donaldson Adoption Institute represents the most thorough, intensive and sophisticated effort to date to understand contemporary infant adoption, particularly as it relates to the least-understood and most-stigmatized participants in the process – the women and men usually termed "birthparents." The findings and recommendations in this paper are based on a year-long examination and analysis of decades' worth of research and literature, relating to the topic, as well as interviews with adoption practitioners, including social workers and attorneys. Pursuant to its mission of improving adoption for everyone it encompasses, the Institute's primary objective was to learn as much as possible about these women and men in order to determine how laws, policies and professional practices affect them; what essential rights they should be afforded; and what reforms are needed to optimize their well-being.

Among the principal findings in this report are:

- More adoptions take place each year than is commonly perceived or reported. The Institute estimates more than 135,000 annually, of which about 13,000 to 14,000 involve babies who are voluntarily relinquished domestically. Of non-stepparent adoptions each year, approximately 59 percent are from the child welfare system, 26 percent from abroad, and 15 percent of domestic infants.
- Overall, the parents placing their children for adoption in the 21st Century are very diverse and different from their counterparts in previous generations. They are no longer primarily teenagers; in fact, only about one-fourth are teens. The predominant profile is young women in their 20s who have graduated from high school, many of whom have other children.
- The vast majority of adoption agencies, as well as independent practitioners, offer open adoptions, in which identifying information is exchanged. Many of the adoptions they arrange also are mediated adoptions, in which ongoing information is exchanged through the agency.
- An overwhelming proportion of contemporary birthmothers have met the adoptive parents of their children – probably 90 percent or more – and almost all of the remaining birthmothers helped to choose the new parents through profiles. Contrary to the stereotypes that have

been created about them, almost no women choosing adoption today seek anonymity or express a desire for no ongoing information or contact.

- Available data and experience indicate a minority of infant adoptions involve fathers in the process. The strongest protection for their rights and for the legitimacy of the adoption process requires identification of biological fathers and notifying them of adoption proceedings. Many states have established putative father registries to involve these men, but they are often used as a means of cutting them out rather than including them.
- Principally because adoption is not well understood by the public generally, most women struggling to make decisions about unplanned pregnancies do not have accurate information with which to make an informed choice about whether this is a reasonable option for them.
- In some states, attorneys paid by and representing the prospective adoptive parents also may represent the women (and men when they are involved) considering placing their children. This practice of dual representation raises acute ethical and practical concerns.
- Research findings consistently show that women who feel pressured into placing their children suffer from poorer grief resolution and greater negative feelings. Most states do not have laws that maximize sound decision-making, however, such as required counseling, waiting periods of at least several days after childbirth before signing relinquishments, and adequate revocation periods during which birthparents can change their minds.
- 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.
- Current research on birthmothers concludes that being able to choose the adoptive family and having ongoing contact and/or knowledge results in lower levels of grief and greater peace of mind with their adoption decisions.
- Women who have the highest grief levels are those who placed their children with the understanding that they would have ongoing information, but the arrangement was cut off. Such contact/information is the most important factor in facilitating birthparents’ adjustment, but only 13 states have laws to enforce post-adoption contact agreements in infant adoptions.

Perhaps the most remarkable finding in the Adoption Institute’s work on this paper was that there are no current studies that have examined a representative sample of women (or men) choosing to place their children for adoption today. The most recent research focused on adolescent respondents but, as noted above, that age group comprises only a minority of contemporary birthparents. Additional research therefore is vital in order to develop laws, policies and practices that genuinely address the rights, needs and desires of women and men who choose adoption for their children.

RAPID CHANGES IN ADOPTION PRACTICE

Adoptions today have changed radically from the clandestine and often-coercive arrangements that many young women experienced in earlier generations. For example, historically, birthmothers were primarily unwed teenage mothers who often had to drop out of school and leave home during their pregnancies. Today that profile is rare. The Adoption Institute’s analysis of available data indicates that only about one-fourth of women choosing adoption are below the age of 20. Most birthmothers have completed high school, and many have other children. According to practitioners, the most

common situations among women choosing adoption today include women in their early- to mid-20s who are just becoming independent from their parents, and single women with other children who believe they cannot manage parenting another child at this point.

The Institute also concludes that total secrecy has become rare in current infant adoption practice, and it is considered poor practice for everyone concerned by a growing majority of professionals. So-called closed (or confidential) adoption, in which there is no contact or exchange of information, is actually a relatively recent phenomenon that became prevalent in the U.S. by the 1950s. The body of research on birthmothers who relinquished children for adoption in the era of total secrecy chronicles a negative, long-term impact of this experience on many areas of their lives, including triggering chronic, severe grief reactions and contributing to ongoing complications in future parenting and marriage relationships.

"I have never forgotten for one minute that I have a son 'out there.' It has always hurt worrying about him and not knowing if he's okay... I basically did not 'go on with my life' in some respects. Something in me simply stopped and never started again."

Living with the uncertainty of what became of their children is identified by birthmothers in closed adoptions as the most difficult factor they cope with, and receiving information about their children is singled out in the research and literature examined for this paper as the most important thing that would help to bring them peace of mind. That reality flies in the face of contemporary stereotypes of birthmothers as women who crave anonymity and oppose contact by

the children they placed for adoption; rather, the desire to know about their offspring appears almost universal. For example, one study of birthmothers in Britain, who ranged in age from 22 to 81, found that all but nine of the 262 respondents (about 3 percent) wanted basic information about their children. The same small number said they wanted to preserve the secrecy of their identities.

Beginning in the 1970s, agencies began offering alternatives to absolute secrecy; there has been a progressive trend toward more openness in infant adoptions ever since, and the great majority of agencies now offer adoptions that are open to varying extents. Still, the proportion of adoptions today that are planned to be closed (confidential), mediated (information exchanged through agencies), or open (identities exchanged) is not known. We do know that almost all prospective birthmothers (approximately 90 percent) choose and meet the adoptive parents of their children, and even the majority of those who do not meet are able to choose the new parents from profiles. Furthermore, many pregnant women today seek open adoptions that include written agreements for ongoing contact with the adoptive families. Several studies reviewed in this report found those birthparents who have had contact with the adoptive family since placement have lower levels of grief, regret and worry, along with more peace with their decisions, than those who did not have this opportunity.

Some expectant parents make adoption plans with the desire and explicit assurance that they will receive information about or have ongoing contact with their children and their families – but subsequently have to cope with the impact of this contact being terminated. Currently, 20 states permit legally enforceable adoption contact agreements, but only 13 apply to infant adoptions. (Penalties for violation of such contracts include fines, but never return of the child). This is an area of law in which reforms are critically needed to support the long-term well-being and adjustment of birthparents. Many older birthparents whose adoptions were confidential, seek information about the children they placed for adoption. Reunions are hampered by laws that prohibit access to birth records by adoptees. The enactment of statutes restoring the right of adopted people, once they reach the age of majority, to gain access to their own birth records would also be in the best interests of the vast majority of birthparents who want to know that their children are alive and well. This is a vivid example of how misconceptions about birthparents can lead to misguided and even harmful practices; that is, state legislators frequently use birthmothers' supposed desire for privacy as a

rationale for keeping birth records sealed when, in reality, only a tiny minority wants to stay closeted and the vast majority want information about or contact with the children they relinquished.

Recommendation 1: Establish legally enforceable post-adoption contact agreements in all states and permit adults who were adopted to regain access to their own records,

COMPLEXITY OF FORCES SHAPING INFANT ADOPTIONS TODAY

The institution of infant adoption in the U.S. today has evolved rather haphazardly in response to sweeping cultural changes, including the widespread availability of birth control, the legalization of abortion and, most notably, the precipitous decline in the stigma against unwed motherhood. As a result primarily of those factors, the number of infants relinquished for adoption in this country has dropped radically. The rate of voluntary placements among never-married white women giving birth fell from 19.3 percent in 1973 to 1.7 percent in 1995; the rate has always been very low among women of color (Chandra, Abma, Maza, & Bachrach, 1999). This scarcity of infants available for adoption has fueled the creation of an array of methods to achieve adoptions – from traditional agencies, to independent attorneys, to match-making “facilitators,” to internet-abetted arrangements in which the prospective adoptive parents and birthparents essentially make most of the arrangements themselves. About half of all infant adoptions are carried out by independent practitioners, who facilitate birthparents’ placing their children directly with potential adoptive parents.

Analyses conducted for this report yielded an estimate of the number of domestic infant adoptions in the U.S. each year – 13,000 to 14,000 – and the annual number of total adoptions – at least 135,000. Domestic infant adoptions account for about 15 percent of non-stepparent adoptions, child welfare adoptions make up about 59 percent, and international adoptions about 26 percent.

The high costs associated with infant adoptions (typically \$20,000 to \$35,000 for all the services involved), the deep yearning of some prospective parents to adopt a baby, and the relatively low level of legal regulation of adoption make the process vulnerable to unscrupulous and unethical practices. Legal regulation is limited in a number of critical respects, particularly relating to adoption facilitators, Internet-based practices, and adoptions conducted principally by the parents (biological and adoptive) themselves. This lack of rules and oversight can threaten the interests of all parties, particularly birthparents. Because practitioners are paid by adoptive parents, who typically have higher social status and income, their needs and desires often supersede those of the other participants. Laws regulating adoptions vary greatly from state to state, and generally fall short of adequate protections of birthparent rights in the adoption process.

HOW ADOPTION LAWS AND PRACTICES SHAPE THE CRITICAL RIGHTS OF BIRTHPARENTS

Based on an analysis of ethical practice guidelines, decades of experience, and studies on outcomes, and reforms advocated by many practitioners, researchers and birthparents, the Adoption Institute sets forth the following rights as being in the best interest of women and men considering adoption for their children (expectant or already born). A parent should have the right:

- To make the placement decision in a fully informed manner, devoid of pressure or coercion.
- To reconsider an adoption plan at any point prior to the legal finalizing of the relinquishment.
- To be informed from the start of any monetary expectations – such as repayment of financial assistance -- if she changes her mind about placement.
- To exercise all parental rights she/he wishes prior to placing a child for adoption.
- To be treated with dignity, respect, and honesty.
- To have independent legal counsel to protect her/his best interests in the process.

- To receive nondirective counseling to help her/him understand all of the options and resources available and the implications of the decision.
- To be legally assured that promises and agreements regarding ongoing information or contact made as a part of the process will be adhered to.

This report examines how state laws and the practice of adoption professionals shape the essential rights of birthparents. Whenever an adoption professional begins working with expectant parents, it is very important that clients be informed of all of their rights, both verbally and in writing.

Recommendation 2: Require all adoption practitioners to provide a document of birthparents' rights and responsibilities, which should be signed by the clients and the professionals near the beginning of their work together.

LAWS THAT SUPPORT BIRTHPARENTS' INTERESTS IN ADOPTION PRACTICE

INFORMED CONSENT THROUGH COUNSELING

Parents considering adoption should be able to make decisions that are fully informed and free from coercion. The concept of "informed consent" applies to a range of decisions in our society; indeed, it is considered best practice and is legally mandated in some realms, such as before receiving medical treatments or participating in research studies. But the concept of being fully informed before making a decision about relinquishing a child for adoption has not been fully implemented or legally mandated in most practice. Ideally, all expectant parents who are considering adoption would receive factual, unbiased information through nondirective counseling to help them explore all of their options, including adoption and parenting, and to enable them to understand the immediate and long-term implications of each. The reality is that many if not most do not receive such counseling. Only about half the states' adoption laws mention counseling; some mandate it and others simply assert that prospective birthparents should be advised of its availability.

Recommendation 3: Require at least two counseling sessions with a qualified professional for all women who are placing children for adoption, during which they are fully informed about their options, including parenting and various types of adoption, as well as about the resources available to them.

Another factor that compromises genuine parental consent is subtle and/or overt coercion, whether from parents, friends, religious or school communities, or the adoption professionals themselves. Adding the ingredient of financial profit to the equation increases the prospect of pressure from some adoption practitioners. Indeed, there are unscrupulous facilitators (and others) who have analyzed the factors that increase the likelihood of relinquishment and try to implement them; for instance, they sometimes persuade an expectant mother to relocate to another state – where she doesn't know anyone and has no support system – or to accept inflated reimbursement for living expenses to increase the chance that she will feel obliged to relinquish. Overt coercive tactics should be barred in law and practice; furthermore, ethical practitioners need to be alert to even unintended, subtle forms of pressure – so, for instance, they need to help an expectant mother understand explicitly that accepting financial aid or developing bonds with the potential adoptive parents does not obligate her to go through with the placement if she decides it isn't right for her or her child.

THE TIMING OF RELINQUISHMENT AND REVOCATION PERIODS

If the best interests of birthparents are to be supported, along with those of their children, then sound laws and practices have to be developed relating to when a woman or man can sign a

relinquishment and whether the decision can be revoked. To permit a woman to make a reasoned judgment – which can be difficult in the days and weeks after childbirth – there should be a significant period of time before she can sign a legal relinquishment, and there should be a reasonable revocation period during which she can change her mind about placing simply because she wants to be a parent and without having to jump through legal hoops.

Every society, including our own, accepts that it is generally in the best interests of children to be raised by their biological parents unless they cannot or do not wish to do so. Placing a baby for adoption is an extremely significant, emotionally fraught decision that has consequences for the biological parents and their children for the rest of their lives. State laws should provide every reasonable protection to ensure that the decision is sound, reasoned and informed. That resonates as intuitively fair before the child is born, but it also should apply to the period afterward because that is when post-partum hormonal changes need time to abate; when the reality (and finality) of the choice often becomes most real; and when mothers and fathers need to be allowed to reflect on the “rightness” of their decision. Though some adoptive parents and practitioners might balk at the lengths of time involved, they ultimately serve everyone’s interests because the adoption is on firmer legal and ethical foundations and adoptive parents can feel more secure that the birthparents were sure of their decision and will not try to reclaim their child.

In many states, you can change your mind about buying a vacation timeshare or taking out a mortgage within a prescribed time period, but most states do not have a revocation period during which a mother can change her mind about relinquishing her child.

At least 28 states specify a waiting period after the birth of a child before legal relinquishments can be signed; only six states mandate a waiting period longer than three days. Ideally, state laws would require a minimum of four to seven days after childbirth before allowing a woman (or man) to sign a relinquishment. In most instances, that would allow time for the mother to leave the hospital and for her to make a reasoned judgment after the immediate physical impact of delivery has abated.

At least 17 states and the District of Columbia have adoption laws providing a specified number of days after the signing of a relinquishment (ranging from three to 30 days) during which parents can revoke their decisions without having to prove fraud or best interests of the child. A few additional states allow revocation before court action terminating parental rights. In many other countries, including the majority in Europe, consents for adoption do not become final for about six weeks; in approximately half of U.S. states, irrevocable consent can be established four days after birth or less. In reality, lengthening waiting and revocation periods requires other considerations – most notably the care of newborns during this period and the timing of placement with adoptive parents – be addressed. Policy-makers need to weigh the interests of all parties in deciding how long these periods should be.

Recommendation 4: Modify state laws on the timing of relinquishment and revocation so that parents have several weeks after childbirth before an adoption decision becomes irrevocable. Ideally, this would include a minimum of one week after birth before a relinquishment can be signed and then a substantial revocation period.

PROTECTING THE RIGHTS OF BIRTHFATHERS IN ADOPTION

Men who are legal fathers (also called presumed fathers) have more rights in the adoption process than do alleged (or putative) fathers. A man is automatically the legal father to his wife’s child, but unwed men need to take specific actions to protect their parental rights. They can best accomplish this before childbirth by providing financial and emotional support to the mother, visiting and communicating regularly with her, and registering in a state putative father registry if there is one.

States vary in the extent to which they seek to protect the rights of putative fathers in the adoption process. A fundamental foundation for doing so is identifying the father, locating him, and notifying him of his rights. Some states do not require mothers to identify their children's fathers, viewing this as a right of privacy for the women involved, while others require them to name the fathers and impose penalties for giving false information.

There are strong ethical, moral and practical reasons to involve men as fully as possible. Some of the highest-profile cases in which adoptions were overturned – and the children were returned to their birthparents – resulted from the fathers' legal rights being circumvented or violated. In other realms, society argues that men cannot be just sperm donors or “deadbeat dads,” but should assume responsibility for the lives they helped create. And, of course, medical and biological information from biological fathers is as important for the adoptive parents' rearing of their children as that provided by their mothers. So the first essential way to involve men in the adoptive process, to protect their rights, and thereby to also bolster the efficacy of the process itself, is to require that they be identified whenever possible and then be personally notified of the pending adoption.

Many states have established “putative father registries,” which men must sign if they believe they have fathered a child out of wedlock; only fathers who have registered are entitled to parental rights, including notification of adoption proceedings. Most Americans do not even know these registries exist, however, and they have other inherent problems – for instance, if a man registers in his own state but the adoption is taking place in another, the court will not know the father explicitly expressed his intentions. Lack of registration therefore should not be used as a means of excusing notification of a known father or excluding a putative father's participation. Overall, more aggressive protection of birthfather rights is needed, including requiring mothers to identify them, except in extraordinary circumstances, and working to notify all possible fathers of adoption proceedings.

Recommendation 5: Require more aggressive protection of birthfathers' rights by mandating their identification by birthmothers whenever possible, and by personally notifying all possible fathers of adoption proceedings. In states where putative father registries exist, they should be widely advertised, and a failure to register should not be used as an automatic reason for not notifying or involving men. A national registry would help to alleviate some of this system's inherent problems.

SUPPORTING THE LONG-TERM ADJUSTMENT OF BIRTHPARENTS

WHAT RESEARCH TELLS US

This report examines the body of research on the long-term social-psychological consequences of adoption for birthparents and the primary factors that are important for their positive adjustment. Most of the research was conducted on birthparents whose adoptions occurred during the era of total secrecy. The most current research has focused on adolescent mothers, a population that is not representative of the majority of women choosing adoption for their children today.

The body of literature and research on women who relinquished their children when adoption was a highly surreptitious, stigmatized process demonstrates the ongoing, negative impact of their experiences on important areas of many of their lives, particularly by causing chronic grief, difficulties in intimate relationships, and/or complications in parenting subsequent children. The research on long-term outcomes of birthmothers is rife with methodological problems – from use of clinical or self-selected samples, to conduct of retrospective surveys, to limited utilization of comparison groups or standardized measures, to failure to examine outcomes by cohort or adoption practices experienced.

In order to improve adoption practice and address the needs of birthparents in the process, it is critically important to conduct sound research that focuses on birthparents who participate in all types of infant adoptions today and to follow them over a period of years.

Recommendation 6: Address the critical gap in knowledge about birthparents' needs and preferences through research on questions including:

- ***What are the characteristics of women (and men when they are involved) who choose adoption for their children today and what are their perspectives in relation to the choices they make – i.e., abortion, parenting or adoption?***
- ***How do they decide on a specific type of adoption, if that is the road they choose, and what laws, practices and policies can best meet their needs and desires?***
- ***What is the emotional and psychological impact of adoption loss for birthparents, and what practices facilitate grief resolution and healthy long-term adjustment for them?***
- ***What practices are needed to support all of a child's parents in working out their relationships after placement, including open adoption arrangements?***

One important caveat needs to be made before discussing the challenges birthparents must address in dealing with the adoption of their children: In today's more-open, more-honest adoption climate, many women and men make successful post-adoption adjustments and feel pride and confidence about their choices. So, in addition to needing more competent and current research on birthparents' needs and adjustment issues, greater understanding is also required of those who adjust well to informed adoption decisions and of which processes helped them to achieve this comfort level.

SUPPORTING LONG-TERM ADJUSTMENT OF BIRTHPARENTS

Based on analyses of multiple studies, decades of literature and professional experience, and interviews with practitioners, the Adoption Institute identified key factors in promoting the positive, long-term adjustment of birthparents; these include:

- Lack of coercion by others in making the decision about adoption;
- Opportunities to express feelings of loss and receiving social support;
- Being empowered to choose the adoptive family;
- Having a level of contact with the adoptive family after placement; and
- Receiving ongoing information on the child's progress and well-being.

Mothers and fathers who plan adoption for their children come to this decision from different sets of life circumstances and with their own unique outlooks and coping abilities. While each individual's adjustment realities will vary, there are some common themes and challenges that characterize the birthparent experience. The Adoption Institute identified four critical areas of adjustment that typically must be mastered in order for birthparents to integrate what has occurred into their lives without undue negative long-term consequences:

- Resolving the grief that invariably accompanies such a profound loss;
- Making peace with the decision to place a child rather than to parent;
- Incorporating being a birthparent into one's identity without lowering self-esteem; and
- Overcoming adoption's impact on intimate relationships.

This report reviews the theoretical and research knowledge related to each of these areas of adjustment, as well as the factors that maximize the long-term, positive adjustment of birthparents.

Many of the answers to better serving birthparents center on the quality of the services they receive throughout the process – during pregnancy, around the time of relinquishment, and in the years

following the adoption. They need to receive thorough education and preparation on the social, legal, and psychological issues involved. If they choose open adoption arrangements, they should be helped to understand that with benefits come responsibilities, that is, to their children; they also need to know they may require assistance to surmount any obstacles that arise in achieving and continuing workable arrangements. And, most pointedly, they need to be prepared for their own emotional adjustment processes, and to be armed with both knowledge and resources that will enable them to heal from the losses they almost inevitably will experience.

Birthparents have reported difficulty in finding counselors who understand the nature of their losses and their grief. Mental health professionals generally receive little or no training related to adoption issues, and there is no body of literature or research on interventions to assist birthparents after adoption (Brodzinsky, 1990; Wiley & Baden, 2005). Addressing this void is a critical step in serving the needs of birthparents after adoption.

Recommendation 7: Develop a broader array of post-adoption services to serve birthparents, including counseling or mediation services to facilitate open-adoption arrangements.

CONCLUSION

Attention to the rights and needs of birthparents must be part of the foundation of adoption if it is to be a healthy, ethical institution that serves the interests of all the individuals involved, as well as of civil society generally. This should be a top priority for future development of adoption law, policy, practice and research. Current adoption-related statutes are too often based on outdated understandings, faulty stereotypes, and misinformation from the time that secrecy pervaded the adoption world. For infant adoptions to be sound and viable arrangements, two paramount needs of birthparents must be addressed: 1) the ability to make fully informed decisions, free of coercion, supported in law and practice, and 2) the wherewithal to know how their children are doing over the course of their lives.

This report illuminates the state of knowledge relating to birthparents and illustrates that current statutes and processes fall short of safeguarding their rights and well-being. The seven primary recommendations listed above are offered as a framework for future reforms. The full report includes additional suggestions to better meet the needs of birthparents in the domestic infant adoption process. The Adoption Institute plans subsequent research to deal with comparable issues relating to birthparents in the child welfare and international adoption systems.

Foreword

This paper on birthparents is rooted in extensive research and experience, but also is framed by and congruent with the guiding principles and values of the Adoption Institute. These are fully explicated on the Institute's website, www.adoptioninstitute.org:

- Every child needs and deserves a permanent family.
- Adoption is a natural, beneficial way to form a family.
- Everyone's needs in the extended family of adoption must be respected.
- Openness and honesty are critical, deception and coercion are undermining.
- Practices must adhere to high ethical standards and be free of profiteering.

Adoption is a complex process that requires balancing the rights and needs of many parties. While the focus of this paper is on birthparents, we recognize that adopted children, adult adoptees, prospective adoptive parents, adoptive parents, and all their families have important requirements and perspectives, which may – at times – differ from those of birthparents. The adopted child's best interests should clearly be paramount, but that should not mean other people's rights and needs should be ignored. Adoption involves social, psychological and legal processes that affect all the parties and their families throughout their lifetimes. We strongly believe that, by carefully and ethically addressing key aspects of the process from its inception, everyone involved will be best served – and the prospect for differing/conflicting interests will be minimized.

The focus of this paper is two-fold – to review the current state of knowledge about infant adoption in the United States and to examine how adoption laws and practices affect the needs and rights of birthparents. This study is based on a year-long examination and analysis of decades' worth of research and literature relating to the topic, as well as on interviews with adoption practitioners, including social workers and attorneys. An advisory group composed of birthparents, scholars and professionals also provided input. The recommendations made in this report relate to improvements for addressing the needs of birthparents; other Institute work (such as the Adoptive Parent Preparation Project and Restoring the Rights of Adopted Persons) focuses on other "triad" members, as well as on professionals in the field. Some of the recommendations in this study on birthparents are based on research findings about factors that influence their well-being; others stem from analyses of state laws by legal scholars and other adoption experts about statutes that are most responsive to birthparents' needs. And, again, all of the recommendations reflect the Institute's principles and values.

We recognize that a few of our suggestions will be controversial, most will (and should) be debated, and some may be altered and implemented only over time because the interests of the other parties also have to be factored into shaping law, policy and practice. But the rights, needs and desires of prospective and current birthparents have been neglected for generations; we hope this paper serves as a starting point for changing that reality and for instigating a dialogue that will lead to improvements that make adoption more ethical, thoughtful and compassionate – first and foremost for the children, but also for everyone whose life is altered by this extraordinary process.

Introduction

One truth becomes evident when reading through the literature written by birthmothers — voluntarily placing a child for adoption is exceedingly difficult for the vast majority of women traveling this path. For most, it is a step that causes deep pain and reverberates throughout the course of their lives, even when they make the choice in a self-determined, informed manner. Descriptions like “amputation of the heart” and “screams that never die” abound in the autobiographical accounts of birthmothers. In the not-so-distant past, adoptions were cloaked in secrecy; young, unmarried women who became pregnant went into hiding and were pressured by their families and advisers to do the “right thing” by having their children adopted, regardless of what they wanted to do. It is no wonder that these generations of women had so much difficulty coming to terms with their anguished feelings of loss and shame.

To the benefit of everyone involved, adoptions today have changed — and are still changing — radically. They are becoming more open and honest, and women considering placing their children can exercise more self-determination. The generations of secrecy that surrounded the process, however, have contributed to large gaps in knowledge — from the characteristics of women who make the decision to relinquish a child for adoption, to the forces that shape this decision, to the repercussions on birthmothers for the rest of their lives. Similarly, we do not know much about birthfathers, the extent to which they participate in the adoption process, or its impact on them. We do not even know exactly how many infants are relinquished for adoption in this country each year or precisely who facilitates these adoptions.

There are several types of adoptions: infant, intercountry, child welfare, and stepparent or other relative. Birthparents’ situations and needs vary to some extent in each type, although many of the lessons discussed in this paper are applicable across the board. Examination of the full range of issues relating to birthparents in all categories of adoption is critically needed; as a starting point, this paper outlines issues that pertain to the well-being of birthparents who voluntarily relinquish an infant, usually a newborn, for adoption within the United States. It presents what we can know, based on research and experience, about the nature of infant adoptions today and identifies factors that are critical in maximizing the well-being of birthparents in the adoption process. It also points out the major knowledge gaps in this field and highlights practices that are critically important in protecting the rights and well-being of birthparents.

Adoption has existed throughout history. It entails both gains and losses for those involved and can have many benefits to all parties when it is carried out thoughtfully and ethically. When the process is carried out in a callous or unprincipled manner, it is not only the birthparents who suffer negative consequences; the adoptive parents and children do as well, in a variety of ways. Sound adoptions, therefore, should be built on a foundation of ethical practices in working with expectant parents considering placing their children into new families.

BIRTHPARENT RIGHTS AND RESPONSIBILITIES

In past generations, the rights of pregnant women considering adoption — as well as those of birthmothers after an adoption — were not well-protected, and complaints of disrespectful, dishonest, and coercive treatment were widespread. Beginning in the 1960s and 1970s, the women involved

began to advocate for changes, and subsequently there has been growing attention to bolstering their rights in law, in agency practices, and through standard-setting professional organizations.

As a framework for this paper – and to explore what laws and practices are important to ensuring that they are treated respectfully and ethically – it is important to define what rights biological mothers and fathers should possess, based on an analysis of several decades of experience, research, writings by those affected, and interviews with practitioners. It is also important to say that, along with rights, birthparents have responsibilities in the adoption process – most notably, to provide accurate information and generally be honest in their dealings with other parties.

Based on ethical practice guidelines and reforms advocated by birthparents, researchers and practitioners, the following rights are set forth as being in the best interest of women and men considering adoption for their children (expectant or already born). A parent has the right:

- To make the decision on whether to place a child for adoption in a fully informed manner, devoid of any pressure or coercion.
- To reconsider an adoption plan at any point prior to the legal finalizing of their relinquishment (typically when the relinquishment is signed or a few days later).
- To be informed from the start of any monetary expectations – such as repayment of financial assistance – if she changes her mind about placement.
- To be allowed to exercise all parental rights she/he wishes prior to placing a child.
- To be treated with dignity, respect, and honesty.
- To have independent legal counsel to protect her/his interests in the adoption process.
- To receive nondirective counseling to help her/him understand all of the options and resources available and the implications of the decision.
- To be legally assured that promises and agreements regarding ongoing information or contact made as a part of the process will be adhered to.

PART I: THE CONTEXT OF INFANT ADOPTIONS TODAY

In order to examine factors that protect the rights and well-being of birthparents in the adoption process, it is critical to understand the nature of current practice. As a framework for this analysis, the following section outlines the context for infant adoptions today.

HOW MANY INFANT ADOPTIONS ARE THERE?

Domestic infant adoption is the type most people think of when they hear the word “adoption.” It is the least common type of adoption in America today, however, and the lack of knowledge about it is so extensive that it extends to our not even knowing how many infants are voluntarily placed for adoption in the U.S. each year.

The collective works of Victor and Carol Flango at the National Center for State Courts (NCSC) have been the best source of adoption statistics over the past two decades. Data on the number of adoptions processed through courts is available from 40 states and the District of Columbia, and NCSC develops estimates for the remaining states based on other data sources. But these numbers include all types of adoptions, including by stepparents, and some adoptions are not represented in these counts at all, particularly some tribal adoptions and internationally adopted children whose

adoptions were not processed in U.S. courts. (Many of these are finalized in the children's countries of origin; some parents have these children "readopted" in American courts, while others do not.)

The estimate of total U.S. adoptions in 2001 was 127,407, down from a high point of about 175,000 in 1970 (Flango & Caskey, 2005). Unlike all other states' statistics, adoption numbers from California did not include stepparent adoptions. These latter (stepparent) adoptions and any international ones not represented in U.S. court data should be added to the total figure to represent a more-accurate count, meaning there were at least 135,000 in 2001.¹ It is also noteworthy that the number of total adoptions appears to be increasing. Based on court statistics from 32 states and Washington, D.C., reporting in 1985 and 2002, there was a 16.9 percent rise in court-recorded adoptions between those years (Flango, 2005).

Historically, stepparent adoptions have accounted for the largest proportion of adoptions processed through the courts. In 1992, 26 states could identify stepparent adoptions among their counts, and they constituted 42 percent of their totals. However, according to Flango and Caskey (2005), most states are no longer able to identify their total counts by type. As states have concentrated on tracking information on child welfare adoptions, which they are required to do by federal law, they have spent less time and money focusing on ascertaining other adoption information. It is likely that stepparent adoptions make up a smaller percentage of current adoptions because child welfare and international adoptions have increased dramatically since 1992.

The federally created Adoption and Foster Care Analysis and Reporting System (AFCARS) database, which has become increasingly accurate since its inception in 1995, tracks the number of adoptions from the public child welfare system. These adoptions vary between 50,000 and 55,000 annually and comprise the largest proportion of non-relative adoptions. They have increased from 18 percent of all adoptions in 1992 to approximately 39 percent of all court-recorded adoptions in 2001.

Because every child who enters our country must have a visa, there also is good data for the annual number of international adoptions. The Office of Immigration Statistics reports a sharp and steady rise in such adoptions, from 7,000 in 1990 to 19,237 in 2001 to 22,728 in 2005 (U.S. Department of State, 2006). International adoptions account for about 15 percent of all U.S. adoptions.

A source of information on domestic infant relinquishments is the National Survey of Family Growth. According to NSFG, the number of voluntary placements for adoption has declined steadily since 1973; in that year, 8.7 percent of all never-married women and 19.3 percent of never-married white women reported placing their infants for adoption. By 1995, this figure had fallen to .9 percent of never-married women and 1.7 percent of never-married white women (Chandra, Abma, Maza, & Bachrach, 1999). A small minority of mothers placing children for adoption are married or divorced.

We do not know if the .9 percent relinquishment rate among never-married women has declined further over the past decade. The most recent national health statistics report that about 1.5 million children were born to unmarried women in 2004, so if the .9 percent rate of relinquishments is applied, this would mean about 13,000 to 14,000 children were voluntarily placed for adoption by unmarried women in 2004 (Hamilton, Ventura, Martin, & Sutton, 2004).

¹ Flango and Caskey (2005) report 9,202 California adoptions in 2001. The California Department of Social Services (2003a) report on FY2001-2002 adoptions reports 10,708 agency, independent, and international adoptions processed in California courts, not including stepparent adoptions. If stepparent adoptions account for approximately 40% of all adoptions, that would add another 7,000 to California's count. In addition, the report states that many international adoptions are not represented.

Taking into account various trends, studies and state reporting, the Evan B. Donaldson Adoption Institute concludes that the current number of domestic infant adoptions is approximately 13,000 to 14,000 a year and composes 9 percent to 10 percent of all U.S. adoptions.²

If we focus only on non-stepparent adoptions, the breakdown of the three types is estimated as follows: 59 percent child welfare adoptions; 26 percent international adoptions; and 15 percent voluntarily relinquished domestic infant adoptions.

HOW DOES THE PRACTICE OF INFANT ADOPTION WORK TODAY?

So-called “closed adoption,” which is defined by secrecy and in which the identities of the parties are not disclosed to each other, is a relatively recent phenomenon. For centuries, most adoptions were arranged informally, usually within children’s extended families. The legal process of adoption as we know it – in which the rights and responsibilities of one parent are terminated and transferred to another parent – was established in more modern times in Western countries. In the United States, Massachusetts established an adoption law in 1851 that served as a model for many other states and for some European nations; by 1929, all other states in this country had adoption statutes (Carp, 1998; Sachdev, 1989). Confidentiality was not incorporated into U.S. adoptions until later.

Secrecy in adoption became prevalent by the early 1950s, as states passed statutes sealing adoption records; however, some states continued to allow adult adoptees to inspect their original birth certificates at that time. Adopted individuals were issued new birth certificates with the names of their adoptive parents listed as their biological parents, and their original birth certificates were no longer accessible to them without a court order. The rationale for sealing adoption and birth records was based primarily on an explicit desire to protect adoptive families from possible interference by birthparents and to protect adoptees from the stigma of illegitimacy (Carp, 1998; Samuels, 2001).

Though social norms and mores have changed dramatically – most notably a marked decline in the stigma against unwed motherhood – closed adoptions continue to be based on assumptions that were prevalent in the social work field in the mid-20th Century and that are still widely perceived as true within our culture. These assumptions include: a) secrecy is necessary to protect the parties involved; b) closed adoption helps birthparents to heal and move on with their lives; c) knowing birth relatives can lead an adopted child to have divided loyalties and identity confusion; d) openness will create competition between the adoptive and birth families and interfere with bonding in the adoptive family; and e) adoptees who are well-adjusted and happy in their adoptive families will have no need or desire to learn about their birth families. Evolving adoption experience, research and practice have challenged or refuted all of these assumptions over the past few decades (Grotevant & McRoy, 1998; Von Korff, Grotevant, & McRoy, 2006; Brown, Pushkal, & Ryan, submitted).

CONTINUUM OF OPENNESS IN ADOPTIONS TODAY

Beginning in the 1970s, some adoption agencies began offering alternatives to absolute secrecy. Cultural changes surrounding more societal openness about sexuality, changing family forms, and reduced stigma connected to illegitimacy provided a backdrop for these shifts in adoption practice. Agencies also had experienced increasing numbers of adopted persons and birthparents returning to seek more information, and the number of babies available for adoption was declining. Another impetus to relax secrecy surrounding birth records came from adoptive parents’ pressure to obtain

² Due to the poor quality of data available, it is not now possible to report precise numbers by adoption type that add up to 100 percent. Some international adoptions are not accounted for in total adoptions reported by courts. The proportion of stepparent adoptions is unknown, and only a few states can identify adoption types among those finalized in their state courts.

updated medical information on their children. Furthermore, women placing their children for adoption began to demonstrate that they did not fit the stereotypes created about them; that is, in growing numbers, they asked for – and sometimes demanded – expanded roles and more ongoing information if they were to go through with the placement process.

In response to all these factors, agencies began providing pictures of children to birthparents, letting pregnant women (and fathers when they were involved) participate in the choice of the adoptive parents for their children, and arranging for the biological and pre-adoptive parents to make contact without sharing identifying information. Practitioners found the response to these changes was overwhelmingly positive for all parties, so they began implementing more and greater forms of openness – including mediated contact through the agency, wherein birthparents and adoptive parents exchanged letters and pictures; direct contact between birthparents and adoptive parents, who provided each other with identifying information; and ongoing relationships between everyone involved in the adoption, including the children.

A longitudinal study of adoption agency practices during three time periods (1987-89, 1993, and 1999) analyzed types of adoption in about 30 agencies in 15 states and found a progressive trend toward more openness in infant adoptions (Henney, McRoy, Ayers-Lopez, & Grotevant, 2003). Whereas mediated adoptions were the predominant type in 1999, the percentage of agencies offering the fully disclosed option grew from 36 percent at Time 1 to 79 percent at Time 3. (Fully disclosed adoptions involve the exchange of identifying information between the adoptive parents and birthparents.) Most agencies offered a range of adoption types and left the choice up to the prospective birthmothers. However, 82 percent of agencies promoted specific types in their training and counseling, with 46 percent encouraging fully disclosed adoptions and none encouraging confidential adoptions. Workers identified the desires/demands of birthmothers as the primary factor leading to these changes – i.e., the vast majority want to maintain a connection to their children.

There also is evidence that infant adoptions facilitated by independent practitioners (generally non-agency adoptions arranged by attorneys) are even more likely to involve contact between birth and adoptive families than those arranged by agencies (Berry, Dylla, Barth, & Needell, 1998). While birth and adoptive parents often meet in independent adoptions, the extent to which ongoing contact arrangements are in place is not known. It is partially competition with independent practitioners that has led to greater openness in agency adoptions. According to a Canadian study of infant adoptions, conditions that make open adoption arrangements more likely include: workers who believe in the positive effects of openness and have non-dogmatic views about matching criteria; and birthmothers who were older, better educated, and employed at the time of their pregnancies. Many of these birthmothers responded to advertisements placed by independent practitioners that offered them the opportunity to help shape the adoptions of their children (Sobol, Daly, Kelloway; 2000).

Most research examining openness classifies its level by degree of contact between birthparents and adoptive parents. Thus, an adoption may be classified as involving the highest level of openness (called “fully disclosed” in the Minnesota-Texas Adoption Project, described below), even though the birthparent may not have contact with the adopted child. Also, there are many adoptions in which adoptive and birthparents meet prior to the birth of the child and see each other around the time of placement, but last names are not exchanged. In some independent adoptions, parents are advised to set up post office boxes to receive ongoing communications from birthparents. Such arrangements make it easy to terminate contact, even if openness has been agreed to by both parties.

Studies indicate the level of openness changes over time, with some open adoptions becoming more closed and some closed ones being more open. Grotevant and McRoy (1998) have conducted research on openness through their longitudinal study, the Minnesota-Texas Adoption Research Project (MTARP). In their research, a number of changes took place before the first wave of data

collection. Almost two-thirds of the fully disclosed adoptions did not begin that way, with a little over half being planned as mediated and 15 percent as confidential (Grotevant, Perry, & McRoy, 2005).

Another longitudinal study that has looked at openness is the California Long-range Adoption Study (CLAS), which examined 764 adoptions by non-foster parents adopting independently and through agencies (Berry, et al., 1998). Among these families, 68 percent were initially open adoptions involving either mail, phone, or in-person contacts between adoptive and birth family members. By the fourth year of adoption, contact was occurring in 53.5 percent of these families. Of the open adoptions, contacts had decreased or stopped for 44 percent of families. In reality, only 37 percent of the adults in open adoptions had had in-person contacts in the previous two years and only in half of the open adoptions did children have any type of contact with their birthparents.

When there was a change in contact, adoptive parents in the California study reported it was most likely to be initiated by the birthparent (49 percent) or by mutual agreement (39 percent), rather than by the adoptive parents (11 percent) (Berry, et al., 1998). The MTARP, on the other hand, reported that birthmothers and adoptive parents tended to have differing accounts about who initiated cessation of contact and why; for example, adoptive parents often reported the decision was mutual when birthparents perceived it as the adoptive parents' decision. The maintenance of open adoptions is complex, and the parties' degrees of interest in contact vary at different points. Adoptive parents are most interested when children are asking questions and seeking more information, while contact is especially important to birthparents early in the process (Grotevant, Perry, & McRoy, 2005).

The proportion of adoptions that are planned to be totally closed or fully open is not known. One source for determining that some contact does occur between adoptive and birthparents is the data gathered by the California Department of Social Services on agency and independent adoptions. Among 878 non-relative independent adoptions in FY01 for which this information was reported, only 4 percent did not meet a birthparent, 28 percent met both birthparents, and 68 percent met one birthparent. It appears that the vast majority of these were designed to be meetings prior to the adoption. Meetings before and after placement were recorded separately, and only 6 percent reported meetings between birthparents and adoptive parents after placement; however, such contact may not have been tracked by the adoption practitioners. For agency adoptions, 89 percent were reported as involving meetings between birthparents and adoptive parents, but contacts were not broken down as being before or after adoption. The majority of birthparents who did not meet the adoptive parents participated in their selection based on profiles (CDSS, 2003a; CDSS, 2003b).

Based on the studies described above and the California DSS data, it appears few totally closed adoptions take place in this country today, but we do not know how many infant adoptions involve ongoing direct contact, particularly involving the children. The preponderance of evidence indicates this is a minority of infant adoptions, but is steadily increasing. Additional longitudinal research is needed with adoptive and birthparents to learn more about the evolution of openness practices.

DIFFERENCES IN ADOPTION PRACTICE STEMMING FROM STATE LAWS

Each state sets the legal parameters governing adoption within its borders, including for infants. These laws, rules and regulations vary considerably on issues including:

- who can adopt
- who can facilitate an adoption
- when and under what circumstances a parent can place a child
- whether counseling is required for prospective birthparents
- whether a birthparent can revoke a signed relinquishment without proving fraud or coercion

- what rights birthfathers have and what they must do to assert their rights
- whether advertising can be used by adoption practitioners, prospective adoptive parents, and/or birthparents
- how much adoptive parents can pay for an adoption, and to what extent birthparent expenses can be covered.

State adoption laws vary considerably and, for the most part, attempts to promote more uniformity in their statutes have failed. A Uniform Adoption Act (UAA) was developed in 1951, and was replaced with an amended version in 1994. Very few states have enacted segments or versions of the UAA (Hollinger, 2000). The UAA contains many procedural provisions to protect birthparents, such as requiring that they be informed about the availability of counseling and independent legal representation, that minor parents receive separate representation, and that a neutral party be present when relinquishments are signed. In some respects, however, the UAA's provisions are less favorable to birthparents, for instance by making relinquishments signed in the first week after birth irrevocable once a child is eight days old, and making those signed later immediately irrevocable without mutual consent or other legal grounds.

PRACTITIONERS WHO ARRANGE INFANT ADOPTIONS TODAY

The adoption of infants in the United States is facilitated by three types of practitioners: licensed agencies, attorneys arranging independent adoptions (sometimes called private or direct-placement adoptions), and unlicensed “facilitators” who link prospective birthparents and adoptive parents for a fee. The types and parameters of services given to expectant parents considering adoption for their children and to pre-adoptive parents can vary considerably by the type of practitioner. Only six states (Delaware, Indiana, Massachusetts, Minnesota, North Dakota, and West Virginia) require that licensed child-placement agencies be used for adoptive placements with non-relatives, but there is variation among these states, too. Minnesota law allows a court to waive this requirement if it is not deemed in the child’s best interest, for instance; while Massachusetts specifies that an agency must place a child or give its written consent to the adoptive parents’ adoption petition. Three other states (Florida, Kentucky, and Rhode Island) require permission from the state social services department or a court in order for a non-agency adoption to occur. Some other states severely restrict independent adoptions through other means, such as prohibiting adoptive parents from advertising for prospective birthmothers.

In agency adoptions, biological parents relinquish their children to the agencies, which assume legal custody. Licensed agencies include county or state public child welfare agencies as well as private agencies; the large majority of voluntarily relinquished infant adoptions through agencies occur under private agency auspices. There are both for-profit and not-for-profit agencies, all of which must meet certain licensing standards set by their states and all of which generally operate in a manner that provides more safeguards to birthparents and adoptive parents than do other types of practitioners.

Licensed agencies typically offer crisis pregnancy counseling services, whether or not a woman is considering adoption. They also usually provide counseling to the parties involved in an adoption, conduct home studies to verify the suitability of pre-adoptive parents, and provide education, counseling and other support after a child’s placement. Agencies also may provide temporary foster care for infants whose parents are ambivalent about relinquishment and need more time to consider their decisions. Pregnancy-related expenses typically are paid from a general fund and, although prospective adoptive parents contribute, they do not directly pay legally permitted birthmother expenses – a practice that can have implications for her sense of obligation to follow through with an adoption plan. In addition, agencies maintain records on their adoptions that theoretically are stored indefinitely. Of course, the quality and integrity of agency operations vary, but most have histories of professional practice interwoven with current social work knowledge and ethics.

Over the last few decades, a growing percentage of prospective adoptive parents, as well as pregnant women considering adoption, have turned to attorneys to “find” one another. Today, largely as a result of the internet, a number of people locate each other independently and get assistance from attorneys only for the legal aspects of the process. In these independent adoptions, consent for adoption is given directly to the adoptive family. Birth and adoptive parents sometimes are attracted to independent adoption because they perceive that it allows them more control and involves less red tape, without an agency acting as an intermediary. Some adoptive parents believe this process takes less time, although there is no basis to know whether this is true. Regulations relating to this type of adoption are minimal, though all attorneys are required to meet the standards of the Bar Association and some also become members of the American Academy of Adoption Attorneys, which sets its own standards for ethical practice.

In some independent adoptions, a third type of adoption practitioner is utilized: a facilitator sometimes called an intermediary. This person, who generally is not a licensed professional, acts as a paid matchmaker to connect the person who hires her (the would-be adoptive parents) with pregnant women considering adoption. Some prospective adoptive parents employ facilitators in addition to working with agencies, to enhance their prospects of adopting. Agencies call these “identified adoptions.” Facilitators currently operate in only a few states, and 26 states have laws aimed at banning or restricting them. For example, New York’s statutes require that only a child-placement service authorized by the state Office of Children and Family Services can be paid a fee to provide adoption services. Other states regulate the practice of non-licensed practitioners by forbidding the use of advertising for adoptive placements or by limiting the compensation facilitators can receive (NAIC, 2004).

So state laws not only vary significantly in relation to adoption processes and procedures, but also in relation to the types of practitioners involved. In most states where independent and agency adoptions both occur, there is no source of information to determine what proportion of adoptions are conducted by each type of practitioner. California is the exception in that the state Department of Social Services collects data on non-stepparent adoptions. These reports are one of the best sources of information on infant adoptions today. Through a compilation of statistics in the tables of these reports, the number of infant adoptions by non-relatives can be closely estimated. For FY 2002, among the 10,000-plus adoptions by non-stepparents in California, 1,526 are estimated to have been infant adoptions by non-relatives of children who were not dependents within the public child welfare system. The distribution across auspices for these adoptions is estimated as: 139 handled by public agencies (9 percent), 591 handled by private agencies (39 percent), and 796 handled by independent attorneys (52 percent).³ There were additional independent adoptions facilitated for relatives, which comprised 36 percent of all independent adoptions (CDSS, 2003a; CDSS, 2003b; CDSS, 2005).

Regardless of the type of adoption chosen – whether domestic infant or international – the cost of adoptions today is high, typically ranging from \$20,000 to \$35,000 (Pertman, 2000). This does not apply to adoptions from foster care, for which there typically are no agency fees, and there often are subsidies. The high costs, the scarcity of available infants, and the adamancy of many potential adoptive parents to have a child have opened the process up to market forces and unscrupulous practices. Pertman discusses these critical issues in his book’s chapter, “The Money’s the Problem,” analyzing contemporary adoptions.

³ These numbers were calculated by using percentages in tables on variables such as age of child, relative/non-relative status, dependent/non-dependent status for public agency adoptions, and applying them to total numbers of adoptions from different auspices.

INTERNET ADOPTION FACILITATION

Another powerful force in the adoption world today is the internet. Online advertising of independent adoption services by agencies, independent practitioners, and facilitators has mushroomed in recent years. A huge array of sites encourage adoptive parents and birthmothers to use their services for quick and effective help. These sites are often designed to pull at the heartstrings and stir up strong emotional identification with their cogent presentations. While this practice has a number of benefits, such as attracting interested families for special needs children, it also increases the potential for fraud and unscrupulous practices to occur. In addition, the likelihood of considerable geographic distance between adoptive parents, birthparents, and professionals who are facilitating these adoptions can complicate the process in various ways – legally, procedurally, and emotionally.

Although these sites offer a range of services, many focus on finding babies for childless couples for profit, and the needs and rights of expectant parents frequently are not a primary concern; for example, consider the following case of a young woman who reported her adoption experience to the Adoption Institute:

Becca expressed her frustration at how her case was handled by a well-known internet adoption provider. She had found this service through her online research and was attracted to a profile of an adoptive family being advertised in her own state. Becca had medical complications during her pregnancy and had to have surgery while pregnant. While a woman from the adoption service phoned her weekly to see how she was doing and if she was still planning on adoption, Becca never received counseling; yet, her child's adoptive parents were charged for birthmother counseling expenses. No one informed her of her right to independent legal counsel, she was never advised on the possibility of parenting, she did not know there was a revocation period in her state, and she was not informed that open adoption was legally unenforceable. She signed relinquishment papers on the fourth day after her daughter's birth but had to sign them again three months later because all legal stipulations for consent had not been followed. Becca had emotional struggles with her grief after the adoption and called the adoption service to ask for a counseling referral. She was told they could not help her. Although Becca was happy with her child's adoptive family, she felt her rights and needs in the process were unheeded.

Several infamous instances of adoption malpractice have been facilitated through the internet. The best-known is probably the case of the "internet twins" who were offered for adoption to a couple in Wales after having initially been placed in the home of a couple in California through an unscrupulous internet adoption service (CNN, 2001).

While adoption advertising will most likely remain a reality in cyberspace, it is obvious that greater monitoring and regulation are needed, ethical adoption practices have to be developed and implemented, and both birthparents and prospective adoptive parents need to be educated about important aspects of safeguarding their rights.

WHAT ARE THE CHARACTERISTICS OF WOMEN CHOOSING ADOPTION?

Historically, birthmothers were primarily unwed, teenage mothers who hid their pregnancies from almost everyone, even their own siblings, and lived in maternity homes for months before giving birth. Today, this profile is rare. Most women who place children for adoption are not teens, and most maternity homes have closed their doors.

There are very few sources of information on the demographic characteristics of birthmothers today. A handful of empirical studies have been conducted since the 1980s, and most of these have been

on pregnant adolescents, who are not representative of today's population of women choosing adoption. The data gathered for this Adoption Institute report indicate that only about one-fourth of women choosing adoption today are below the age of 20.

The adoption data compiled by California and statistics gathered by several well-established adoption agencies in other states (The Cradle in Evanston, Illinois, Spence-Chapin Services to Families and Children in New York City, the Nebraska Children's Home in Omaha, and the Children's Home Society of North Carolina) were used to examine the characteristics of birthparents who made adoption plans for their infants. Data regarding representative groups of birthparents has not been collected and analyzed across agencies and geographical areas of the country. Although the data below cannot be construed as representative of all U.S. infant adoptions, they make an important contribution in advancing the understanding of individuals who place their children for adoption, particularly those served by agencies. Information on ages of the women at the birth of their children relinquished for adoption is listed in the table below.

TABLE 1. AGE OF BIRTHMOTHER AT BIRTH OF CHILD

Birthmother's Age	Independent CA adoptions (n=886) ⁴	Private agency CA adoptions (n=519) ⁵	The Cradle-IL (n=290) ⁶	Spence-Chapin-NY (n= 373) ⁷	Children's Home-NE (n=54) ⁸
19 & younger	20%	27%	24%	28%	33%
20-24 years	24%	33%	40%	30%	41%
25-29 years	18%	19%	15%	13%	20%
30 or older	37%	21%	21%	29%	7%
Median age	26 years	23 years	23 years	23 years	23 years

Education. Most birthmothers had completed high school – 70 percent in independent California adoptions, 67 percent in private agency California adoptions, 73 percent in The Cradle adoptions, 63 percent in Spence-Chapin adoptions, and 80 percent in Children's Home of Nebraska adoptions. From 28 percent (private agency) to 33 percent (independent) of California birthmothers had at least some college or trade school. Sixteen percent in independent California adoptions were college graduates, while only 3 percent of California private agency birthmothers had graduated from college.⁹ Spence-Chapin reported 10 percent of its birthmothers were college graduates.

Other children. In addition, many birthmothers have children other than the child they are placing. (Some have children they are parenting, and others have children who were previously placed for adoption.) The Cradle reports that 65 percent of the birthmothers it served in a single year had at least one other child; Spence-Chapin's five-year demographics identify 40 percent as having other children. The report on California private agency adoptions indicates that 47 percent of placed children have known siblings, and only 9 percent of this group were placed with their siblings.

⁴ Data used were on non-relative independent adoptions in California in FY 2001. Ninety three percent of these adoptions by non-relatives were for children age 1 or less.

⁵ Data used were from the California report on agency adoptions for FY 99, in which detailed data were reported on 75% of private agency adoptions. Subsequent reports had more missing data. Ninety four percent of private agency adoptions were for children 1 year of age or less.

⁶ Data are for all domestic infant adoptions from FY02 through FY04, The Cradle, Evanston, Illinois.

⁷ Data are for all domestic infant adoptions from FY2000 through FY2005, Spence-Chapin, New York City.

⁸ Data are for adoptions from Nebraska Children's Home Society, Omaha, Nebraska in 2004-2005.

⁹ Valid percentages are used which are adjusted for missing data.

Race/ethnicity. The large majority of California infant adoptions involved white infants (80 percent for private agency adoptions and 83 percent for independent adoptions).¹⁰ Likewise, the Nebraska agency reported that 87 percent of birthmothers with whom it worked were Caucasian. Other agencies' clients were more diverse: Spence-Chapin in New York reported 38 percent Caucasian, 33 percent African-American, 17 percent Hispanic, 9 percent Asian, and 3 percent other. The Cradle, located near Chicago, reported 53 percent Caucasian, 31 percent African-American, 8 percent Latina/Hispanic, 4 percent multiracial, and 3 percent Asian. Children's Home of North Carolina reported that birthmothers who chose adoption in their program were evenly split at 44 percent white and 45 percent black, with the remainder being primarily multi-racial (8 percent).

WHY DO PARENTS CHOOSE ADOPTION TODAY?

The decision to choose adoption is typically made within a complex context of influences and factors including:

- societal attitudes and norms, as well as the values of the parents' particular sub-culture (social class, religion, race/ethnicity, etc.)
- family and extended family attitudes and behaviors
- relationship between the expectant mother and father
- peer attitudes and behaviors
- socioeconomic realities and stresses
- personal goals and ambitions, for the themselves and for the child
- psychological readiness for parenting at the time of pregnancy

In previous generations, many women were coerced or pressured into adoption for their babies – or themselves felt they could not parent -- because of two powerful stigmas: Society held that pregnancy outside of marriage was almost totally unacceptable for the mother (and her family) and it labeled their children “illegitimate” and “bastards.” Parents would often go to great lengths to assist their daughters in hiding their pregnancies, carrying out adoptions, and keeping these events secret from others. One example from around 1970 in the author's own practice involved two high school sweethearts from a Southern state whose parents got together, determined that their children would be secretly married to avoid any potential stigma of illegitimacy for the child, sent the pregnant girl away to a maternity home in another state to have the child and relinquish him for adoption, told everyone the girl was visiting a relative, and then had their marriage annulled when the daughter returned home. From start to finish, everything was kept a secret from other relatives and friends.

The secrets and stigmas that surrounded adoption were reflected in laws and social policies as well. In many states, birth records of children born out of wedlock were stamped with the word “illegitimate;” there were few services to assist women in any decision other than surrendering the child; and supports for parenting, such as state-subsidized child care, were few and far between.

The intensity of this social climate may be hard for people born in later generations to understand. They are described poignantly by Carol Schaefer in her book, *The Other Mother* (1991). For many parents of this time, becoming pregnant before marriage was the most dreaded fate imaginable for a daughter. Schaefer wrote of how her mother forbade her to reveal her pregnancy to anyone, including her brother and sisters, who were told that she was spending a semester with a friend in Florida. She wrote fake letters home that were read to her siblings, and her mother had to always

¹⁰ Where the race of the birthfather was reported as unknown (7% of private agency and 17% of independent adoptions), the race of the birthmother was used as the child's race.

make sure she got to the mailbox first so that none of the children discovered the discrepant postmark. When her parents picked her up from the maternity home to take her home, they told her that she should never mention the pregnancy or the child again, and that they would all forget it ever happened. Finally, Schaefer told her mother that she and the birthfather wanted to get married and reclaim their baby before the revocation period ended. Her mother responded that she would help however possible, but the young couple would have to move to another state so that Schaefer's father did not lose his job and the family would not experience public shame.

Despite this strong social stigma, the “choice” to surrender a child for adoption was made by a minority of unmarried women giving birth during this era. Prior to 1973, about one-fifth of unmarried white women relinquished their infants for adoption. This rate fell to 7.5 percent between 1973 and 1981, and declined further to 3.2 percent between 1982 and 1988. By 1995, the percentage had dropped to only 1.7 (Chandra, et al, 1999). The percentages among women of color have been significantly lower historically than placement rates for white women. Many social shifts help explain the decline of white children placed for adoption over the last few generations – starting with the growing social acceptance of single, unmarried parenthood and also including the availability of contraception and family planning as well as the legalization of abortion.

Though there are some reports that greater openness and knowledge about their adopted children may be causing an upswing in infant adoptions in some parts of the country (*Wall Street Journal*, 2004), it is nevertheless an infrequent occurrence for a woman to choose adoption in contemporary society whether or not she is married. Many experts agree adoption is not well-understood by the general public or even presented by counselors working in health clinics or crisis pregnancy centers. Others report that a social stigma against adoption remains, so that a woman wanting to consider this option is judged harshly by peers, relatives, and the public. Almost any adoption social worker will recount stories of pregnant women being brow-beaten by medical professionals and even friends regarding their plans to place a child for adoption. Generalized knowledge has not kept pace with the enormous changes in the adoption field, nor has adoption knowledge made it into the mainstream of public education or professional educational curricula. Daly's (1994) study of adolescent perceptions of adoption concluded that adoption is the least discussed option in communications with parents and friends – as opposed to abortion or parenting – and 63 percent of teens responded that they did not know what was involved or what to expect with adoption.

In the end, planning for an adoption rather than having an abortion or choosing to parent is a decision a woman comes to through her own life circumstances, her perceptions of financial and psychological capacity to raise her child, and her beliefs about what is in her child's best interest.

RESEARCH ON FACTORS ASSOCIATED WITH CHOOSING ADOPTION

There is a body of research related to the differences between women who choose adoption for their children and those who choose to parent. (No comparable studies have been conducted on women choosing between abortion and adoption.) The existing research has focused primarily on pregnant teens, and has found that those choosing adoption are of higher socioeconomic status and have higher educational aspirations than those choosing to parent (Resnick, Blum, Bose, Smith, & Toogood, 1990; Donnelly & Voydanoff, 1996; Chippendale-Bakker & Foster, 1996). Bachrach, Stolley, and London (1992) identified what they called the “opportunity costs” of parenthood as a key factor in the adoption decision.

A large longitudinal study of unmarried, pregnant women age 21 and under, who were recruited primarily from maternity homes, compared those choosing adoption to those deciding to parent. Those choosing adoption were more likely to come from homes with both biological parents and less

likely to be from families receiving public assistance. Also, African-American women were much less likely to choose adoption than were Caucasian women (Namerow, Kalmuss, & Cushman, 1997).

Three additional major factors have been identified as having an impact on a pregnant teen's decision regarding an unplanned pregnancy: the influence of her parents, particularly her mother; the attitudes and behavior of the baby's father; and the attitudes and behavior of peers (Dworkin, Harding, & Schreiber, 1993; Geber & Resnick, 1988; Namerow, Kalmuss, & Cushman, 1993; Chippindale-Bakker & Foster, 1996; Weir, 2000). Weir's study includes an account of a client in a residential program for pregnant foster girls who had to lie about her adoption decision. To avoid ridicule from peers, she went through the motions of preparing to parent and pretended her child had been taken from her and put into foster care. Weir describes "adoption stigma bias" as prevalent in today's society and views this stigma as a deterrent to choosing adoption.

For teens experiencing unplanned pregnancies, there also are developmental constraints against considering adoption. Adolescents are generally egocentric in their thinking and are struggling to develop their own identities. Often, there is a projective identification among teens who see their expected children as an extension of themselves and as an opportunity to achieve new identities for themselves. The babies often represent hope for a changed – i.e., better – life, and considering the children's needs as separate from their own is difficult for many teens to achieve (Weir, 2000).

For the most part, it is clear that pregnant teens, their boyfriends, parents and peers do not know the realities of contemporary adoption, nor do many workers in health clinics or crisis pregnancy centers. But the research in this area is 20 years old, so we do not know the extent of this lack of knowledge or how much it may be changing. In a landmark study with pregnancy counselors, Mech (1984) concluded that many counselors assume that pregnant adolescents have little or no interest in the adoption option and have difficulty in initiating discussion of it with clients. Based on this research and his later study of pregnant adolescents, Mech concludes: "There is little evidence to indicate that adolescents who decide to terminate a pregnancy, or those who keep and parent a child, have been given an opportunity to consider an adoption plan" (1986, p. 556).

Mech (1986) also studied adoption interest among 320 pregnant adolescents and found that one-third of them had a moderate to high interest in possible placement of their children. He also found very little difference between white and black pregnant teens in adoption interest levels. His research and testimony before Congress was an impetus to the introduction of the Infant Adoption Awareness Initiative in 2000, a program to educate health care providers nationally about the realities of adoption and about best practice guidelines for providing nondirective counseling to pregnant women – that is, counseling that describes all options without steering the women to any one of them.

COMMON SITUATIONS AMONG PARENTS CHOOSING ADOPTION TODAY

Most of the research on factors associated with making an adoption decision has been conducted with adolescent populations that are not representative of contemporary women choosing adoption. In an effort to shed light on the situations leading to current decisions in infant adoptions, supervisors and workers in several well-established private adoption agencies were interviewed.¹¹ They identified common profiles of women choosing adoption today, and there is some overlap among them. Some of those commonalities are discussed below, but, it is essential to recognize that birthparents are individuals with their own unique circumstances and outlooks. Against that backdrop, professionals identified the following situations as the most prevalent in their current adoption practices:

¹¹ Adoption agency staff interviewed included: Susan Watson and Amy Silverman, Spence-Chapin of New York, Monica Johnson, Lutheran Social Services of Illinois, Pam Tancredi, The Cradle in Illinois, Kim Anderson, Nebraska Children's Home Society, Nancy Gunn, Children's Home Society of North Carolina, and Melissa Dodson of Kinship Center in California.

1. Women in their early to mid-20s: This is the dominant age range among those choosing adoption today – young adults who typically are just getting launched in their lives and becoming independent from their parents. Some are still in college or graduate school. Often, deciding to parent would mean moving back home with their parents. They have some understanding of the demands of parenting and are more able than teens to realistically separate the needs of their babies from their own needs.
2. Single parents, and occasionally married parents, with other children: Women of all ages who already are struggling to obtain the emotional and financial resources to parent a child or children they already have may feel at the breaking point when they learn they are pregnant again. They may be close to poverty, homeless, recently divorced, or be experiencing other factors that contribute to a feeling that they cannot cope with parenting another child at this point. Often, the level of support from the baby's father is a significant factor in whether the woman decides to parent or place.
3. Teenagers: Many teens choosing adoption are mature in their thinking (which does not necessarily mean that maturity favors one option over the other), have personal goals that are important to them, and/or do not perceive that they would be good mothers at this point in their lives. Their own parents run the gamut between those who support them in whatever they choose, to those who are adamantly for or against parenting the child. The parents of pregnant teens who start out as unsupportive of parenting often become more supportive after the baby is born.
4. Women with extreme personal difficulties: These women have problems or disabilities that they recognize as compromising their ability to parent. The issues include poverty, substance abuse, domestic violence, severe mental illness, developmental delays, and severe health problems. Some women, particularly those with ongoing substance abuse problems, have had children removed by the child-welfare system and choose to voluntarily surrender a subsequent child – under circumstances they can help to shape – rather than suffer another removal.
5. Victims of rape: This group encompasses women of all ages and a wide variety of circumstances, from rape by relatives to date-rape or rape by strangers. For obvious reasons, these women can feel very ambivalent about raising the babies they are carrying.
6. Young women from conservative ethnic, religious and cultural communities: Shame, fear of how family members and others in their communities will react, and a lack of support are powerful forces in influencing pregnant women to choose adoption. Young women from cultures with strong prohibitions against out-of-wedlock pregnancy often hide their conditions and then place their children. Spence-Chapin, located in New York City, reported working with some birthmothers from Middle Eastern and African cultures whose lives would be in danger if their fathers, brothers, or spouses found out about their pregnancies. In some other racial/ethnic groups, the family's social position and parents' lack of support of a pregnancy outside marriage are also powerful forces.
7. Recent immigrants: A sub-group placing their children are women who recently immigrated to the U.S., most undocumented. They usually have no social support or extended family, live in overcrowded housing, and are in precarious financial situations. Some owe large sums of money to whomever smuggled them into the country. Some are pregnant due to rape. These women are very vulnerable and often are not eligible for formal support services due to their legal status.
8. Parents expecting a baby with a disability: Single or married expectant parents who learn their newborn will have a serious health issue sometimes decide they cannot provide the child with adequate care. In some cultures, having a child with a disability such as Down's syndrome might bring shame on the family. Some adoptive families find satisfaction and meaning in parenting such children, and there is a growing population of special needs infant adoptions, such as the program at

Spence-Chapin. The Cradle, based in Illinois, reported having several cases in this category each year and has developed a systematic approach to identifying prospective families for these children.

Overall, the parents placing their children for adoption in the 21st Century are very diverse and different from their counterparts in previous generations. Research that examines the characteristics and needs of a representative sample of these birthparents is needed to increase our understanding of the laws and practices that would best respond to their needs. Outdated stereotypes of this population prevail in the general public and among professionals – and those stereotypes too frequently inform society’s attempts to shape policies pertaining to them.

PART II: HOW BIRTHPARENT RIGHTS ARE SHAPED BY LAW AND PRACTICE

Earlier in this paper, a set of rights for birthparents was advanced as a means of protecting their interests in the adoption process. This ensuing section will examine how state laws – along with the ethics and practices of adoption professionals – shape their essential rights. Desirable practices for protecting birthparent rights also will be identified. Much of the discussion will focus on services to women, since expectant mothers are typically the primary clients of practitioners in the field. However, contemporary practice also needs to secure and protect the rights of the biological fathers and make every attempt to involve them in services. Later in this report, laws and practices surrounding birthfather involvement in the adoption process will be discussed.

Whenever an adoption professional begins working with expectant parents, it is very important that they be informed of all of their rights, both verbally and in writing. These rights may sometimes be specified in state laws, particularly the right to make a decision free of coercion or duress, or in a prescribed consent/relinquishment document. For example, New York’s consent form for private placements specifies the revocation period and conditions, parents’ rights to independent legal counsel of their own choosing, and their right to supportive counseling (New York State Unified Court System, 2006). In good practice, expectant parents need to be counseled about these rights and how to exercise them long before they sign a document that will forever change their lives.

Assuring that the rights of birthparents are fully protected is a matter of ethical and skilled adoption practice. One state making a strong effort to assure that expectant parents considering adoption are fully informed is Illinois, which recently passed a statute mandating use of a document entitled Birth Parents’ Rights and Responsibilities (IDCFS, 2006) for all adoptions not involved in protective services.¹² A similar document must be used with adoptive parents in domestic and international adoptions to inform them of their rights. The Illinois document states that anyone “receiving adoption planning services or pregnancy counseling in Illinois ...should know that you have the following rights according to ethical social work practice and/or Illinois law:

“To make decisions free from coercion or pressure, including the decision of whether or not to place your child for adoption.

“To work with an adoption agency or attorney of your choosing, including the right to change to another agency or attorney at any time.

¹² IL Child Care Act: 225 ILCS 10/7.4 c & d.

“To receive, upon your request, a written list of all promised support, financial or otherwise, from the agency or attorney.

“To receive information about the Department of Children and Family Services Adoption Information and Complaint Registry website and toll-free telephone line by accessing the DCFS website at: www.state.il.us/dcfs.”

If adoption is to be a process in which all parties are treated fairly, respectfully and ethically, then every agency, attorney and other facilitator should include such a statement of birthparent rights in their practices – and should adhere to it. This type of care and explicit delineation of rights should become a basic foundation for protecting birthparents’ interests in the adoption process.

MAKING A FULLY INFORMED DECISION THAT IS FREE FROM COERCION

According to an adoption legal scholar, laws pertaining to domestic infant adoption have two primary goals: “(1) preventing the unnecessary separation of family members by ensuring that birth parents make informed and deliberate decisions and (2) protecting the finality of adoptive placements” (Samuels, 2006). However, Samuels points out that in many state laws, there is a risk of the second goal eclipsing the first – encouraging careful deliberation. Adoptive parents and many legal professionals who work with them place primary emphasis on protecting the finality of adoptive placements. For parents considering their options and professionals counseling them, the focus is understandably on making a thoughtful, well-informed judgment on whether to parent or to relinquish their children for adoption.

The concept of “informed consent” applies to a range of decisions in our society; indeed, it is considered to be best practice and is legally mandated in many realms, such as receiving some medical treatments or participating in research studies. But the concept of being fully informed before making a decision about relinquishing a child for adoption has not been fully implemented or legally mandated in most practice. In her discussion of adoption and parental rights, Hollinger (2000, p.1-9) states that an adoptive relationship will not be created at all unless a court “is confident that, absent waiver, voluntary and informed consents have been obtained from the biological parents.” However, the elements of an informed consent in adoption are murky and not fully spelled out in legal statutes. For example, the legal implications of relinquishment can be stated in finite terms, but the psychological implications are less apparent and more subject to bias in their presentation.

For a woman to make an informed decision about placing her child for adoption, she must be aware of its realities and implications, and must be able to consider them with full and accurate knowledge. The extent to which this is a realistic possibility for most women experiencing an unplanned pregnancy today is unclear. The current social climate surrounding decision-making related to crisis pregnancy is very complex; it has been shaped by rapid social change in values related to unwed pregnancies, political and ideological divisions centering on abortion, and significant changes in the adoption field that are largely unfamiliar to the general public.

Generally, adoption is very much in the background or off the table altogether during presentations of possible options for unplanned pregnancies. Groups opposing abortion have developed resources to assist women with problem pregnancies, and some have viewed supporting parenting as their only strategy to discourage women from choosing to have an abortion (Olasky & Olasky, 1990). Also, other services to assist women in reproductive choices such as those based in health clinics may not present all options fully to women, particularly since counselors lack information about adoption (Mech, 1984). In reality, we do not know the extent to which all options are presented to women seeking counseling for unplanned pregnancies or in what manner they are presented, because research has not addressed this question in the past two decades.

In order to make a fully informed decision relating to an unplanned pregnancy, expectant parents need to know the range of options open to them – along with factual, unbiased information related to all those options; furthermore, misinformation and unrealistic fears associated with any of those options may need to be dispelled. Guidelines presented by many organizations, such as the Council on Accreditation for Children and Families (COA), the Child Welfare League of America, and the American College of Obstetricians and Gynecologists, call for women to be provided with “nondirective” counseling about the options of parenting, abortion, and adoption. (COA distinguishes between organizations providing Pregnancy Options Counseling and those providing Birth Options Counseling, although both require nonjudgmental, nondirective help.) Also, programs receiving funding through Title X of the Public Health Service Act for pregnancy counseling are legally required to address all options.

Keeping children with their original families is a valued goal in all cultures, and remains the most common solution for unplanned pregnancies that are carried to term. Adoption will always be chosen by only a small minority of women; however, it needs to be a viable option for those who genuinely believe it best serves their interests and those of their children. Ideally, expectant parents who want to explore adoption for their children should receive respect and support from their families, their friends, and the culture in which they live. They also should receive information that is up to date about the types of adoptions available, counseling about the short- and long-term consequences of their decisions, and effective resources to assist them. All those components of informed decision-making are not readily available today. Progress needs to be made on many fronts to ensure that individuals facing unplanned pregnancies can feel confident that the difficult choices they are making are the right ones for them.

To make their practices as ethical as possible, adoption professionals should offer information and counseling on the full range of topics that are important for expectant parents to understand about their rights, the options and resources available to them, and the implications of placement. One model for furthering these goals is a four-page list that the Kinship Center in California presents to all its clients, who have to sign off as understanding each subject that is discussed.

SOURCES OF COERCION IN DECISION-MAKING

Subtle or overt coercion of expectant parents exploring options for an unplanned pregnancy can come from many sources, typically including boyfriends or husbands, parents and friends, as well as others in their social networks such as faith communities or schools. Duress or intimidation can also come from professionals from whom expectant parents have sought help, however, including health providers, counselors, or attorneys. Counseling, information or even body language that attempts to steer a person’s choice by promoting (or denigrating) a specific option, offering biased or inaccurate data to shape decision-making, or establishing contingencies to influence a particular course is both unethical and potentially damaging to the well-being of expectant parents and their children.

Birthmothers and fathers sometimes report that they received subtle coercion – both intentional and unintentional – but examples of egregious behavior also occur. And the ingredient of financial profit to the adoption equation adds a dimension of possible coercion. News stories about adoption scandals often stem from accusations of malpractice among practitioners who have used coercion, deception, and other means to secure an infant for adoption. One example was a news story in *The Cincinnati Post* (October 11, 2005) about a birthfather who had finally received custody of his 18-month-old son after numerous court battles in two states. The attorney handling this adoption had been accused of telling the expectant mother that the pre-adoptive family in another state would sue her if she did not follow through with the placement of her child; encouraging her to hide from the baby’s father and to tell the judge she had been raped so he would terminate the father’s rights; and in other ways attempting to thwart the father’s attempts to gain custody of his son.

Adoption agencies with sound, ethical programs bend over backwards to ensure that their counseling of expectant parents is nondirective and honestly assists them in exploring all of their options. For example, The Cradle and Spence-Chapin call their counseling programs for expectant parents “options counseling” and not adoption counseling. Adoption professionals should give expectant parents clear statements of their rights and at every step reiterate that they can choose to parent their children even if they already are pursuing an adoption plan.

Adoption agencies offering “options counseling” typically find that a greater proportion of their clients choose to parent their infants. Nebraska Children’s Home Society, for example, reported that two-thirds of the women they counsel decide to parent. Nondirective counseling that fully informs expectant parents requires more than lip service about the possibility of parenting, and it should not be a manipulative process that steers women toward an adoption decision. Social workers need to talk with expectant parents about what it would be like if they chose to parent their children, explain informal support systems they could access for help, and outline resources that would be available to assist them. This is a professional obligation, even if the clients come in totally focused on an adoption plan. In addition to individual, couple, or family counseling, some agencies offer support groups for women before childbirth that can assist them in exploring their alternatives.

In ethical practice, services and/or financial assistance should never be contingent on agreement to relinquish an infant. In good practice, counselors also should help their clients diffuse coercion coming from relatives, friends and other social networks. When expectant parents feel pressured by others, attempts should be made (with the clients’ permission) to involve family members in counseling sessions. If the clients do not want to meet with estranged boyfriends or other relevant parties, social workers may offer to talk with them in private sessions. Workers at Spence-Chapin reported that, at times, they have counseled parents who were pressuring their daughter to proceed with an adoption that decisions made under duress may not be legal and that their daughter must make her own choice. When such coercion cannot be diffused, social workers can support an expectant parent in making her own decision and linking her with other sources of support.

Expectant parents considering adoption should be informed about the range of adoption types in relation to openness, including confidential, mediated, and fully disclosed. They should be given factual information to assist them in choosing the type of arrangement that meets their needs and to think about their long-term as well as their immediate life circumstances. If the agency does not provide the type of adoption the client is seeking, a referral to a more appropriate resource should be made. Also, any laws relating to open adoption arrangements in their states should be clearly articulated – as should the reality that the extent of post-adoption contact may vary over time – irrespective of the understandings reached beforehand.

RECEIVING COUNSELING TO ASSIST IN DECISION-MAKING

Counseling of expectant parents dealing with an unplanned pregnancy is a complex process that involves providing education and support; linking clients with appropriate resources; exploring concerns, ambivalence and fears; anticipating the implications of choices for their own and their child’s future; and thinking through ways of coping down the road. Ideally, every expectant parent considering adoption would receive nondirective counseling, but the reality is that many do not.

States vary widely in their statutes assuring that women receive counseling prior to relinquishing children for adoption. Approximately half the states’ adoption laws mention counseling, with some mandating it and others asserting that prospective birthparents should be advised of its availability. Some states prescribe a minimal amount of counseling: New Mexico, for example, mandates one session for women 18 or older and two sessions for younger girls; Nebraska requires four hours of counseling; Ohio, at least one session completed 72 hours prior to signing consent; Louisiana, two

sessions; and Connecticut requires that women receive counseling in a specific timeframe, i.e., within 72 hours of childbirth. One state aims for a higher standard – Minnesota requires that women considering placing their children be offered up to 35 hours of adoption-related counseling. Legal mandates related to counseling are minimal requirements at best, and should not be viewed as approaching a best practice standard.

Mandating counseling and independent legal representation for prospective birthparents are practices that help to serve the best interests of everyone in the adoption process. For example, Louisiana's adoption statutes, and the text in the state's surrender documents, specify that a minimum of two pre-relinquishment counseling sessions have been provided (though the father is allowed to waive such counseling) and that the parent has consulted with and been advised by an attorney about the meaning of the surrender. This attorney must not be an associate of the prospective adoptive parents' attorney (Article 1130.1 and Article 1123).

Parents considering adoption need to be informed of their state's laws surrounding adoption and the implications of these laws for them, including waiting periods to sign relinquishments, whether there is a revocation period, whether agreements about ongoing contact after adoption are legally enforceable, and what their rights are in the process. In agency adoptions, expectant parents considering adoption frequently are educated about legal aspects of adoption by social workers and not attorneys. They often are not required by state law to be represented by an attorney, and while they can certainly consult one on their own or be referred to one by the agency if their case is legally complex, many do not do so.

In independent adoptions, many states permit attorneys for the adoptive parents to also represent the women (and men when they are involved) considering placing their children. In 1987 the American Bar Association's ethics committee issued an opinion stating that an attorney may not ethically represent both birth and adoptive parents (Samuels, 2006). The practice of dual representation raises acute ethical and practical concerns, particularly since the lawyer is paid by the adoptive parents. In her book on adoption ethics, Anne Babb (1999) recounts the case of a birthmother, Kathy, who had been told by her attorney (paid by the adoptive parents) that there was a 30-day revocation period for the adoption; yet, when she decided to revoke her consent two days after signing, the attorney advised the adoptive parents to contest her decision and acted as their agent rather than the biological mother's. He had neglected to tell Kathy that, in order to regain legal custody, she had to prove it would be in the child's best interest. This lack of clarity about whom the lawyer is representing can lead to serious problems for the women and men considering placing or who have placed their children for adoption. Moreover, Babb views the ambiguity surrounding who the client is in adoption practice as creating ethical dilemmas for many adoption workers.

It is probable that a large percentage of birthparents involved in independent adoptions have not received counseling to assist them with the complex emotional issues they encounter, although no data exist to learn the extent to which this takes place. While some state laws specify that attorneys should raise the need for counseling and refer anyone who is interested, they may not fully appreciate its importance or assist birthparents in receiving this service. Some lawyers may try to provide their clients with services akin to those of agencies that are working to achieve ethical practice, but the standards relating to their work do not necessarily address the emotional needs of birthparents. Some adoption agencies also do not operate according to a high standard of ethics and professionalism, so their clients may not receive the type of counseling needed either. Many adoption agencies have a long history of professional practice and are accredited by the Council on Accreditation, which establishes practice standards and reviews agency practices. For example, COA Adoption Standard 7.04 specifies:

Birth parents are prepared for adoption through services that include:

- *education about their legal rights, and confidentiality;*
- *planning for participation when it is appropriate and desired;*
- *support to cope with voluntary or involuntary termination of their parental rights;*
- *counseling on grief, separation, loss, and the lifelong implications of placing a child for adoption;*
- *discussion of changing roles and relationships when the birth parents will have an ongoing relationship with the prospective adoptive parents;*
- *education on issues related to search and reunion; and*
- *planning for the immediate future, and referral for needed services (COA, 2005, p. 7).*

The ability of adoption agencies to effectively counsel expectant parents is limited by the timeframe within which they seek services. Some agencies report that a significant number of parents choosing adoption do not contact them until right before or even after childbirth. For example, The Cradle's statistics on 103 domestic infant adoption cases served in fiscal year 2002 indicated 43 percent were referred within 10 days prior to or after the birth of the child. At times, this is because the woman is avoiding the fact of her pregnancy or cannot bring herself to deal with the realities of adoption. Some women will have made an internal decision regarding an adoption plan, but do not know the benefits of doing something before the baby is born. Almost all adoption agencies also report a few cases where a woman in labor goes into an emergency room and does not recognize that she is pregnant.

RIGHT TO RECONSIDER ADOPTION PRIOR TO LEGAL FINALITY

A critical aspect of good adoption practice is educating expectant parents on their need to avoid signing a legal relinquishment until they are certain they want to go through with the adoption. The Illinois statement of birthparent rights informs women and men that they should sign the legal documents involved only when they feel comfortable with their decisions. In addition, it advises:

A birth parent has the right to refuse to sign a Surrender or Consent for adoption (right up until the last moment before signing) if he or she has hesitation or doubt about his or her decision to place the child for adoption.

The above advice is important to ensuring that birthparents are not rushed or pressured. Most agencies also advise parents that they have the right to request temporary care for their children if they need more time to decide. In addition, it is essential to let them know throughout the process that they have the right to change their minds about an adoption plan at any point prior to the date upon which their relinquishment is legally irrevocable (typically when the relinquishment is signed or a few days later).

LAWS RELATED TO WHEN RELINQUISHMENTS MAY BE SIGNED

State laws related to voluntary relinquishment of parental rights vary in their impact on prospective birthparents' ability to make sound decisions, free from coercion. It is in their best interest to have a period of time following childbirth to think about how and whether they want to proceed with an adoption. For most mothers and fathers, a child becomes much more real after he/she is born, and a significant number of parents planning for adoption decide to parent instead after the birth.

For the mother, childbirth is invariably an overwhelming, stressful, and emotional experience, particularly if it is her first child. Women who have just given birth are flooded with hormones, namely oxytocin, which promotes maternal bonding. This neurohormone has been called the "cuddle

hormone” (Turner, Altemus, Enos, Cooper, & McGuinness, 1999). Immediately following birth, mothers typically “fall in love” with their babies, and need time to return to a more normal physical and emotional level in which they can rationally consider their plans.

In addition to the physical and emotional demands of childbirth, this experience can be traumatic for some women, particularly those who have been ill-prepared for the experience and do not have external emotional supports. Generally speaking, a postpartum mother is in a vulnerable state and needs more than a few days to make a life-altering decision related to relinquishing her baby.

Laws that require a significant period of time to elapse after childbirth and prior to legal relinquishment being signed – as well as laws allowing for a revocation period during which parents can change their minds about relinquishment without legal grounds – are most supportive of the interests of birthparents and, ultimately, their children. Good practice would also indicate that workers should assist parents in thinking about their decisions and postpone any legal signing if they are still genuinely uncertain. The time by which relinquishments can be signed are *minimum waiting periods*, and women need to be encouraged to delay signing if they are not yet sure of what they want. Most adoption agencies provide the possibility for temporary care of the infant if parents need more time.

At least 28 states specify a waiting period after the birth of a child before legal relinquishments can be signed. Two states (Alabama and Hawaii) allow the signing of relinquishments during pregnancy, with the ability to revoke this decision within a few days of childbirth. The specified time periods in the statutes of the 28 states requiring a waiting period before signing a relinquishment range from 12 hours in Kansas to five days in Louisiana. In Rhode Island, a parent can sign a surrender anytime after birth, but the document terminating parental rights cannot be filed with the court until the child is at least 15 days old. Some states differentiate between time frames for agency and independent adoptions; Virginia, for instance, specifies that parental rights cannot be terminated for 25 days after birth and allows Entrustment documents to be signed anytime after birth for agency adoptions, but Parental Placement documents cannot be signed until 10 days after birth for independent adoptions. The most commonly specified time period in statute is 72 hours (14 states), and only six states specify a time period longer than three days.

Ideally, state laws would require a minimum of four to seven days after the child’s birth before allowing a birthparent to sign a relinquishment. In most instances, that would allow time for the mother to be released from the hospital and for her to make a reasoned judgment after the immediate physical impact of childbirth has abated.

CAN RELINQUISHMENT DECISIONS BE REVOKED?

Some state statutes dealing with financial transactions provide for time periods within which individuals can change their minds and nullify their decisions, such as buying a timeshare in Florida or taking out a mortgage in Illinois. So the law recognizes that individuals may be pressured or influenced against their better judgment to sign a document, and it provides a period for reflection and modification. Likewise, some state statutes provide a period of time following the signing of a legal document relinquishing a child during which this important decision can be revoked.

At least 17 states and the District of Columbia have adoption laws providing a specified number of days after signing a relinquishment (ranging from three to 30 days) during which birthparents can revoke their decisions *without having to prove fraud or best interests of the child*.¹³ Also, New York

¹³ Alabama (5 days), Arkansas (10 days), California (30 days), Delaware (14 days), District of Columbia (10 days); Georgia (10 days), Illinois (3 days), Iowa (4 days), Kentucky (20 days), Maine (3 days), Maryland (30 days), Michigan (20 days), Minnesota (10 days), North Carolina (7 days), Tennessee (10 days), Texas (11 days), Vermont (21 days), and Virginia (15 days).

provides for a revocation period if consents are signed outside of court (45 days for a private adoption and 30 days for an agency adoption); however, return of the child to the birthmother is not automatic in New York. If the agency or prospective adoptive parent chooses to contest the revocation, a “best interests” hearing is held. A few additional states provide the possibility of revoking a relinquishment prior to court entry/approval of the document, appearance of the birthparents at a termination hearing, or consent of the prospective adoptive parents. In most states, a signed relinquishment is irrevocable or revocable only upon proving fraud, duress, or best interests of the child (Samuels, 2005).

When a birthparent has to prove best interests of the child to regain custody, the scales are almost always tipped in the favor of adoptive parents, who are usually more affluent, have more stability, and have had custody for most of the child’s life. Even birthparent challenges based on statutory violations – that is, when consents are not given according to legal requirements – are rarely successful (Samuels, 2005).

Sakach (1997) argues that the greatest protection the adoption process could provide for both birthparents and adoptive parents would be requiring liberal revocation statutes and mandated counseling. These practices would give biological parents adequate time and assistance to make a final decision about placing their children for adoption, and would provide security to adoptive parents that the biological parents would not reclaim their children. She recommends that prospective birthmothers not be permitted to sign consents for at least 72 hours after they leave the hospital. Sakach also recommends that, after signing a consent, the biological mother be given two months during which she may withdraw her consent and get the child automatically. After that, she would not be permitted to revoke consent without showing fraud or duress. Sakach argues that the two-month period would allow any custody change to occur before substantial attachment has developed in a newborn.

Elizabeth Samuels (2005), reports that in many other countries, including most of Europe, consents for adoption do not become final for approximately six weeks. In contrast, in about half the U.S. states, irrevocable consent can be established in four days after birth or less. The European Convention on the Adoption of Children, which has been ratified by 18 nations, specifies that there should be a six-week period before a legal consent can be accepted. Samuels recommends that relinquishment decisions be revocable for at least a month after a child’s birth (combining a four- to seven day waiting period before taking a consent and at least three weeks for a revocation period).

Some adoption professionals favor requiring a longer period of time before a legal consent or relinquishment can be signed, and then a shorter revocation period. This approach would give a mother enough time to recover from the immediate physical and psychological impact of childbirth and to thoughtfully consider her plan for her child.

Of course, the location of the child during this first month following birth – while legal parental rights have not been irrevocably relinquished – is also an important factor to consider. Temporary care placements are available through most adoption agencies, which allow for visitation by the child’s parents and potentially by pre-adoptive parents. Other options might include temporary homes where the mother can return with her baby until she makes a decision related to adoption or parenting, or a legal-risk placement of the baby with prospective adoptive parents who recognize that there is the possibility that the birthparent could change her mind within a specified time period.

Our society accepts that it is generally in the best interest of children to be raised by their biological parents unless they cannot do so. Relinquishing a child for adoption is an extremely significant, emotionally fraught decision that has consequences for the birthparents and their children for the rest of their lives. State laws should provide every reasonable protection to ensure that the decision is a

sound, reasoned and informed one. A legal requirement for a substantial time following childbirth before a relinquishment can be signed and for a revocation period of several weeks would be statutes that serve the best interest of birthparents and ultimately their children. These would provide time for biological parents to make reasoned decisions regarding placing their children for adoption and to be able to reflect on the “rightness” of this decision. The precise time periods also will have to reflect other considerations – notably including the needs of adoptive parents and the best interests of children – but it is clear that longer and more uniform periods are needed.

RIGHT TO KNOW ALL EXPECTATIONS RELATED TO FINANCIAL ASSISTANCE

Many women who are planning to relinquish children today are struggling to make ends meet financially, and so it is routine in all types of infant adoption for prospective adoptive parents to provide assistance to help pay temporary living expenses, uncovered medical charges, counseling and legal fees, and some other childbirth- or adoption-related expenses. While these are commonplace, there are laws governing which payments are acceptable and when – as well as laws regarding adoption-related fees to agencies and attorneys – that are intended primarily to prevent baby selling and fraudulent practices.

While adoption agencies typically offer services such as options counseling to pregnant women, they usually do not have the funds to provide significant financial assistance to women struggling with unexpected pregnancies. Instead, agency social workers typically attempt to link expectant mothers to existing community resources that address their specific needs, and sometimes they can provide such items as infant supplies or maternity clothes that have been donated.

The relatively few agencies that do have significant funding generally provide only women pursuing adoption plans with substantial financial assistance, such as paying rent for several months or covering unpaid medical expenses. In independent adoptions, as well as in some agencies, such assistance comes directly from the potential adoptive families. Unfortunately, financial aid can be construed by an uninformed expectant parent to constitute an obligation to place her child for adoption – which clearly is not and should not be the case. Indeed, ethical practice standards demand that expectant parents be clearly and convincingly informed that the decision to place – or not to place – a child for adoption must not be based on any feeling of financial obligation.

The Illinois’ Birth Parents’ Rights and Responsibilities document puts it this way:

If you have received financial assistance during your pregnancy from an agency or prospective adoptive parent, you are under no obligation to place your child for adoption. You and your family members are under no obligation to repay support received. However, you have the responsibility not to receive reimbursement or support for expenses simultaneously from more than one agency or attorney without each agency or attorney’s knowledge.

All but four states have statutes that specify the types of expenses that can be paid to prospective birthparents in connection with an adoption, and some specify the amount as limited by a “reasonable and customary” standard. A lack of clarity in specifying allowable expenses creates the risk of unethical practices, such as trying to entice needy expectant parents to surrender children for money. In addition to the types of expenses already mentioned, some statutes permit payment for foster care (if necessary) and travel. About one-third of the states specify the time period during which expenses can be covered; for example, New York limits payment of living expenses to up to two months prior to the child’s birth and one month afterward. Some states also stipulate a maximum amount that can be paid (NAIC, 2005). Only Idaho requires that parents must repay expenses if they

change their minds about the adoption, while other states mandate that they cannot be required to do so; however, most states do not address repayment at all. Individual adoption agencies or practitioners in some states may require repayment of assistance when the mother changes her mind about adoption. Whatever the rules beforehand, almost all the states require that an accounting of all adoption-related expenses be included in the court proceedings that make an adoption official.

Unscrupulous facilitators can use the payment of expenses as a coercive tactic to pressure prospective parents to place even if they are reluctant to do so or believe it is not the best course for themselves or their children. For example, an expectant mother may be persuaded to accept inflated living expenses – which can be tempting at the moment, but can create a sense of obligation down the line. In addition, some facilitators press expectant mothers to relocate to a state closer to the adoptive parents' home, and pay their travel and housing costs to do so, in order to increase the odds that a woman will place her child for adoption. Ethica, an organization committed to ethical adoption practice and consumer protection, quotes a facilitator's e-mail on the subject:

...we are most concerned with getting the birthmother in a situation where she is most likely to place. We do not want to do the same work twice with no extra income. One of the things that we have found is that birthmothers that are willing to relocate for the purpose of adoption have a 95%+ likelihood of placing. Therefore we use maternity housing as much as possible. It does increase the cost of adoption significantly – at least \$5 to 10K, but they almost always place (Ethica, 2006, p. 7).

FINANCIAL NEED AND ADOPTION

Adoption should not be a permanent solution to a temporary problem. Some birthparents choosing adoption today are in dire economic straits and would choose to parent their children if they could obtain the financial means to do so. Consider the following young woman who sought help from an adoption agency:

Melody, an 18-year-old African-American adolescent, called and made an appointment to meet with a counselor about open adoption for her unborn child. However, her immediate concern was that she had no food. She was not only pregnant but also the mother of a 2-year-old. Her own mother had died the previous month, leaving Melody to care for her four brothers and sisters ranging in age from 2-17. The family had received a Social Security check at the beginning of the month but had spent the money on funeral arrangements for their mother. Melody now found herself with no food and no money for the remainder of the month, for herself and the five children in her care.

The reality is that in this country, the amount of governmental assistance that single mothers can receive often does not meet their needs or enable them to escape extreme poverty. The current U.S. welfare program, Temporary Assistance for Needy Families (TANF), offers monthly cash payments averaging \$288 for one child and \$362 for two children. Most TANF families also receive food stamp assistance, averaging \$288 a month for all families (Children's Defense Fund, 2004).

Many Western countries provide more generous assistance to single mothers seeking to parent their children. For example, a woman in England can receive income support as well as a housing benefit and local tax benefits. In income support, a single parent with one child would receive approximately 130 pounds per week (the equivalent of \$11,788 a year), plus she would get rent and local taxes paid and other benefits such as free milk and prescriptions (Neil, 2006).

The development of adequate resource systems in this country to assist people who choose to raise their own children is critical to assuring that expectant parents are not coerced into making adoption decisions due to a lack of support, including a lack of financial resources.

FORTIFYING AGREEMENTS AND PROMISES TO BIRTHPARENTS

When prospective birthparents are provided explanations of their basic rights in the adoption process, they typically do not include the right to have agreements honored regarding the ongoing provision of information and/or ongoing contact. For a pregnant woman to plan for the adoption of her child with the expectation and assurance that she will have an ongoing relationship – of whatever minimal or extensive form is agreed upon – and later to have the arrangement substantially or completely severed by the adoptive family can be devastating, barring circumstances in which a birthparent is somehow a danger to the child. Research findings described later in this paper do substantiate the harmful effect on birthparents of terminating information sharing or contact.

Some infant adoptions involve agreements that adoptive parents will send information and pictures about the child according to a specific time-frame and that letters between birth and adoptive parents can be exchanged through the agency (mediated contact). Other adoptions involve agreements for ongoing contact between the parties. Workable contact arrangements are best planned through training and preparation of all the parents and, ideally, are supported through post-adoption services that assist the parties in working through any difficulties that arise. As trusting relationships gradually develop, these contact arrangements tend to work more smoothly. An open adoption relationship is a dynamic process that evolves over time, but in some cases the agreement is terminated unilaterally by one of the participants. Many states recognize the need for statutes that provide a means to solve problems. These laws provide mechanisms to fortify the agreements when they break down, such as referral for mediation or a court hearing to seek reestablishment of contact. Enabling legal enforcement of these agreements offers protection for birthparents as well as for adoptive families.

Describing the parameters of legally enforceable post-adoption contact agreements, Hollinger writes:

Since the mid-90s, many states have enacted statutes that recognize the possibility that an open adoption arrangement may be compatible with –and not in conflict with -- a full and final legal adoption. By the end of 2004, at least twenty-one states had enacted statutes that expressly permit adoptive parents to enter into an enforceable post-adoption contact agreement with their adopted child's biological parent, and, in a number of these states, with siblings and other birth relatives. These agreements are subject to court approval during the adoption proceeding and may be enforced in a court proceeding once the adoption is final. The statutes further provide that the basic validity and finality of an adoption is not affected by the existence of an open agreement or by any dispute over its terms (Hollinger, 2006).

While at least 21 states currently have contact statutes relating to adoption, only 13 of these apply to infant adoptions (Arizona, California, Maryland, Massachusetts, Minnesota, Montana, New York, Nevada, New Mexico, Oregon, South Dakota, Washington, and West Virginia). Some of the post-adoption contact statutes are limited to specific groups of adopted children, usually those who are in the child welfare system or, in the case of Vermont, children adopted by step-parents (Appell, 2003). In California and New York, post-adoption contact agreements are legally enforceable for agency adoptions but not for independent adoptions (Roseman, 2001). A few other states' adoption statutes mention contact agreements but do not provide for enforceable contracts in which either party can petition the court to order compliance with the agreement. If a parent refuses to comply with a court order, the parent faces the usual penalties associated with refusal to obey an order – i.e., the court can hold the parent in contempt and impose a fine and/or jail time. But for most infant adoptions,

there is no legal basis for enforcing verbal or written contracts made between prospective adoptive parents and birthparents regarding their agreement for ongoing information exchange or contact.

Post-adoption agreements need support in both law and practice. Experts in the field of open adoption stress the importance of assisting potential adoptive and birthparents in developing written agreements outlining their expectations after the child's placement. Some specialists argue this is a sacred covenant entered into by all parents for the benefit of the child (Gritter, 1997; Romanchik, 1999a). In her educational materials for birthparents, Romanchik emphasizes that they need to assess, up front, what commitments they can make and, once they have committed to contact, they have a responsibility to their children to follow through even if it is painful or uncomfortable. She describes this as a moral obligation:

We need to treat our open adoption relationships as the tremendous responsibilities they are instead of a privilege benevolently bestowed upon us. This means always remembering birthdays and holidays and being there when it is important to be there. It means educating ourselves as much as possible so that we will know what to say when our child asks us the tough questions... When we commit to our children, we are also acknowledging that we are important to them, that the love and caring, that only we can give, validates our children's existence (Romanchik, 1999b, p. 16)

Once an agreement related to post-adoption contact has been made, it is best backed by law. Dr. Bruce Rappaport (1998), an adoption professional, asserts that the absence of legal foundations for these agreements undermines their efficacy and sends a powerful message that open adoptions are not legitimate. In states that do not have enforceable post-adoption contact agreements, laws need to require agencies to inform birthparents and adoptive parents of that fact. Working to institute statutes that legally enforce such agreements across the nation is a critical need in the adoption field.

PROTECTING THE RIGHTS OF FATHERS IN ADOPTION

The parental rights of fathers have historically been tied to their being married to the baby's mother at the time of childbirth. The percentage of births to unmarried mothers climbed over the second half of the 20th Century and into the 21st – from 4 percent in 1950, to 10.7 percent in 1970, to 28 percent in 1990, to 35.7 percent in 2004 (CDC, 2005; Hamilton, et al., 2004). As the number of biological fathers who are not married to their children's mothers has increased, society has progressively sought to delineate these men's rights – including whether to parent their children, to sustain a relationship with them, and to exercise consent in the adoption process.

As in other areas, adoption laws and practices relating to birthfathers have been shaped by cultural attitudes. The colloquial term “deadbeat dads” is a common stereotype and colors all aspects of men's involvement in the adoption process. A Canadian study on attitudes of triad members toward releasing identifying information on adoptees to birthparents found that respondents were much more willing to grant access rights to mothers than to fathers (Sachdev, 1991). The author concludes that members of the adoption community share the prevailing stereotypical views of the birthfather as a “Don Juan” or “phantom father” – that is, little more than a sperm donor.

A recent study of community attitudes toward birthfathers' motives for consenting to adoption and for single parenting showed most respondents (72 percent) thought a man's choosing adoption for his child was a caring, unselfish act (Miall & March, 2005). However, the authors' analysis of qualitative interviews revealed that women harbor more negative stereotypes and judgmental attitudes about birthfathers than do men. Most adults, but particularly females, also viewed the emotional attachment

of a father to his child as primarily learned, whereas mothers were viewed as having an instinctive, biologically predisposed emotional attachment (Miall & March, 2003).

WHY MAXIMIZE THE INVOLVEMENT OF FATHERS IN THE ADOPTION PROCESS?

There are immediate, long-term positive outcomes linked to the involvement of birthfathers. First, fathers have a moral and legal right to participate in decision-making about the fate of children they helped create. Consequently, the legality of an adoption in which their rights were circumvented can be called into question – or, worse, such an adoption can be overturned. The heartbreaking and infamous stories of Baby Richard and Baby Jessica, in which a 4-year-old boy and 2-year-old girl were removed from their adoptive homes, are cases in which safeguards to protect fathers' rights were violated. In the words of an Iowa judge who was quoted in a Baby Jessica ruling: "Courts are not free to take children from parents simply by deciding another home offers more advantages."¹⁴

Fathers can also provide a much-needed source of support to expectant mothers, even when they do not continue to have a romantic relationship. Having created a child together forms an ongoing connection between these two people, and achieving a cooperative relationship provides advantages for them as well as for their child. But some expectant fathers' initial responses of denial and/or anger to the news of a pregnancy can pose ongoing barriers in their relationships. Women need to be counseled to provide fathers an opportunity to evolve in their reactions. In reality, many women themselves do not welcome this news with wholehearted acceptance either, so they need to recognize that the father's response also will likely change over time.

Ideally, adopted children should know that their birthfathers are people of value who cared about them and their welfare. They also need to know a range of information about and from their birthfathers, such as medical and family history; when possible. It is also beneficial – obviously contingent on circumstances – for the children to get to know their biological fathers as individuals. Adopted people's own identities and their emotional resolution of their separation from birth families are influenced by their perceptions and attitudes about both birthparents.

Adoptive parents, likewise, can benefit from meeting and knowing their children's first parents, including birthfathers. A study exploring 113 adoptive fathers' thoughts and feelings about their children's biological fathers reveals that those who had met these men were most likely to have a positive attitude toward them. For example, one adoptive father who had an ongoing relationship with his son's birthfather reported that it helped him to understand his son better, enriched their relationship, and allayed fears he might have had of the unknown (Baumann, 1999).

Even when there is no personal contact, but the birthfather signed a relinquishment, the adoptive father's attitudes were more positive than when this did not occur. When the adoptive father's sole source of information about the biological father was the birthmother, his attitudes were more likely to be negative. Ultimately, when adoptive parents talk with their children about their birthfathers, positive attitudes go a lot further than negative ones in helping children develop healthy identities.

Prior to the 1970s, it was rare for an expectant father to become directly involved in the adoption of his child unless he was married to the mother. A landmark 1972 Supreme Court case, *Stanley vs. Illinois*, opened the doors, at least part way, to the involvement of unwed fathers in adoption and parenting decisions. Stanley had lived with his three children's mother for 18 years but almost lost custody of them after her death because unwed fathers were presumed in statute to be unfit, so he had no legal status as a parent to his own children. The Supreme Court's decision in his case

¹⁴ In re Burney, 259 N.W. 2d 322, 324 (Iowa 1977).

elevated unwed fathers' relationships with their children to constitutional status worthy of fundamental protections, and thereby required attention to them in the adoption process.

WHAT RIGHTS DO BIRTFATHERS HAVE IN THE ADOPTION PROCESS?

The Supreme Court, in *Lehr v Robertson*, 1983, determined that unwed fathers do not have an absolute due-process right to notice and hearing before an adoption can be finalized. Because Lehr had not registered with New York's putative father registry, he was not entitled to receive notice of his child's adoption at age 2 by his step-father. The four U.S. Supreme Court cases related to rights of unwed fathers that have shaped state laws and practices have focused on unwed fathers with children beyond infancy and adoption by step-fathers in three of these cases. The Supreme Court has not accepted for review any cases involving infant adoptions. While recognizing the rights of unwed fathers who have consistent, supportive relationships with their children, the Court has not established absolute rights of unwed fathers overall but has left the issue to the states.

Men who are legal fathers (sometimes called presumed fathers) have more rights in the adoption process than do alleged or putative fathers. A man is automatically a legal father to his wife's child, while unwed fathers can become legally recognized in various ways – by living with the mother and openly holding out the child as his biologically; by being listed on the birth certificate; or by claiming paternity in a legal process. A man seeking to protect his parental rights can best do so before childbirth by providing financial and emotional support to the mother, visiting and communicating regularly with her, and registering with the state's putative father registry, if there is one.

In order for an adoption to proceed, both parents must consent to it, must relinquish their parental rights, or must have their rights terminated in court. The standard for terminating a presumed father's parental rights in adoption is higher than for putative fathers; it usually involves showing that the man abandoned or failed to support the child for a period of time, or that he is a danger to the child. The rights of a putative father can be terminated if he did not sign up in a putative father registry or because he did not come forward after a legal notice was published in the newspaper regarding an adoption petition; it is worth noting that the men sometimes do not know they have impregnated anyone, and that these notices are frequently printed in small type and/or in sections of the newspaper that are not commonly read.

IDENTIFYING, LOCATING, AND NOTIFYING FATHERS

In reality, the extent to which a man can be involved in the adoption process or a parenting decision depends largely on his relationship with the mother at that time. If she has an ongoing, positive relationship with the father, she normally would welcome his involvement; if she does not, however, she may resist his involvement out of fear, desire to control the situation, or for other reasons. The bottom line is that adoption professionals need to work diligently with pregnant women toward the goal of locating fathers, informing them of their rights, and giving them an opportunity to participate in the process. This would not be possible or advisable in a minority of circumstances, such as when the woman has been raped or genuinely does not know who the father is.

States differ in the extent to which they seek to protect the rights of putative fathers in the adoption process. A fundamental foundation for doing so is identifying the man, locating him, notifying him that an adoption is pending, and explaining his rights. But some states do not even require that a putative father be identified. For example, Idaho's adoption statute (Title 16, Chapter 15) reads:

The legislature finds that an unmarried mother has a right of privacy with regard to her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity of an unmarried biological father prior to or during an adoption proceeding, and has no obligation to volunteer information to the court with respect to the father. I.C., § 16-1501 A(4)

Likewise, New York's adoption statutes list eight grounds on which a father can be entitled to notice of adoption proceedings. Those include the typical reasons for being a legal father; the mother identifying the child's father in a written, sworn statement; and the man filing with the putative father registry (§ 750 ILCS 50/7). In New York, the mother can know the father's identity and state it publicly to adoption professionals and others, but if she does not legally name him in a document or he does not file with the registry, he is not entitled to notice of adoption proceedings. This effectively allows adoption practitioners who want to cut corners to be much less aggressive in their attempts to identify and reach out to birthfathers because it is not required by law.

In states with more rigorous statutory requirements, adoption professionals are more likely to make attempts to identify and involve birthfathers in the process. For example, Illinois requires prospective birthmothers to complete an Affidavit of Identification on the child's parentage in which she either identifies the biological father and provides information about him, states she does not know his identity and explains why she is unable to identify him, or explains her reasons for not wanting to identify him. If she refuses to name the father, she is told she is placing her child at legal risk. Any man who is named in the affidavit is entitled to notice of legal proceedings related to his parentage.

Louisiana is an example of a state where statutes support identification of fathers and require agencies to exercise due diligence in locating them. In the text of the legal surrender that a mother signs, she is asked to declare the name of the child's father. The following warning is given for providing false information:

Affiant declares that she has been informed and understands that it is unlawful to willfully and knowingly make a written or oral false statement about the biological paternity of a child and has been advised that the penalties for such falsity are either a fine of ten thousand dollars or imprisonment for not more than five years, or both. (Article 1122)

Rigorous protection for birthfather rights and for the legitimacy of the adoption process requires identification of all possible fathers. Some states have enacted strong statutory language to achieve this aim. For example, prospective birthmothers in Connecticut are required by the probate court to provide the identity of the father and must sign a statement of fact regarding this information. Similarly, women considering adoption in Iowa are asked to provide information about the identity of the biological father and, if he cannot be identified, an affidavit must be submitted to the court explaining why. If the mother refuses to name the father, she is likely to be required to testify at the hearing for termination of parental rights, and those rights likely will not be severed if she knows but refuses to disclose the man's identity. In Nebraska, the only basis on which a woman can refuse to disclose the name of her child's father, unless she does not know, is if her own safety or that of the child would be called into question.

Most states mandate that an identified father be given notice prior to any legal proceedings to terminate his parental rights, but some states qualify this requirement by specifying that notice be given only to certain categories of fathers. For instance, putative fathers may only be entitled to notification if they have registered with a Putative Fathers Registry or if they meet the criteria of a legal or presumed father.

Many states also prescribe in statute that agencies make a diligent effort to locate the father before an adoption proceeds. In Texas, if the mother identified a biological father who cannot be located, the agency is required to show it made a diligent effort to find him or one of his relatives (§ 161.107). Regardless of what states require, it is good practice for adoption professionals to make concerted efforts to identify and reach out to fathers. This may necessitate counseling the mother about why the man needs to be involved, and it may mean asking her permission to contact him independently if she does not want to do so. Fathers need to know their rights and options in relation to their

children, including that they may waive their rights if that is their choice. If the child is adopted, they need to provide complete medical, historical and other relevant information for the new family. Their questions and concerns should be addressed, and they should be given the opportunity to participate in open adoption arrangements. These efforts are not intended only to make adoptions legally secure and ethically sound, but also to ensure the well-being of the men and women who created the child.

'THE LETTER OF THE LAW' AS CARRIED OUT WITH PUTATIVE FATHER REGISTRIES

A man who has sexual intercourse with a woman is on notice that if a child is born as a result, the child may be adopted without his consent unless he has registered in accordance with the Putative Father Registry. Where he fails to register, he forfeits his rights as a parent.

Words such as those are encoded in the statutes of many states that have developed putative father registries as a basis for exercising and terminating the rights of alleged fathers. New York was the first state to establish such a registry, and many others followed suit after several successful contested-adoption cases in the early 1990s. Approximately half the states now have such registries, which require a man who suspects he may have impregnated a woman to register by a certain deadline, typically five to 30 days after the child's birth, in order to be notified of adoption proceedings and possibly entitle him to file for custody of the child (Beck, 2002).

There are many problems with the operation of these registries, including that most people do not know of their existence or their specific requirements. Furthermore, some critics maintain it is not in keeping with normative human behavior to expect anyone – man or woman – to register somewhere after every sexual encounter, in case a pregnancy may occur. Their effectiveness has also been called into question because their existence is rarely advertised and they are state-based, so locating a father can be complicated if the mother and father do not reside in the same state or the baby is placed for adoption in a different state.

If the rights of fathers are going to hinge on putative father registries, then at a minimum there have to be significant efforts to let the public know they exist and what their requirements are. In their current form, they too often serve to curtail a father's rights because states use strict registry deadlines against them in many ways – for instance, when they were not even aware of the pregnancy or the registry, or even when they have been providing support to the pregnant woman and otherwise been acting responsibly, but have not formally registered.

In a current Illinois case, for instance, the biological father and mother were both attorneys who worked together and had a long-term affair while they were married to other partners. At the point the mother's husband was seeking to adopt the child, the biological father filed a petition to claim his rights under the Illinois Parentage Act. A DNA test established his paternity, but his parentage petition was later dismissed because he had not registered in the putative father registry within the required 30 day period, and an adoption petition filed by the mother's husband was allowed to go forward. In his discussion of this case – which is being appealed to a higher court – Gitlin (2006) observes that there is no reference to the registry in the Parentage Act, so even a putative father who reviews parentage statutes would not learn he has to register.

The obscurity of putative father registries was also evidenced in an Ohio man's comical description of his attempt to sign up in that state (Smith, 2003). For example, he described repeated failed attempts to find a phone number or address for the registry and, when finally finding the building, the security guard told him he was in the wrong place. The author was the biological father in a contested adoption. He finally agreed to withdraw his petition for custody, having his parental rights restored and receiving liberal visitation of his son, now a teenager. After the litigation, Smith began studying law and has authored many publications related to fathers' rights in adoption, including

establishing his own website, <http://www.eriksmith.org/>, and compiling a national directory of putative father registries offered on several adoption websites.

Some mothers – for good reasons such as abuse but sometimes also for capricious ones – attempt to thwart a man's claim to paternity by going to another state to complete an adoption, which is one reason some policymakers and researchers have recommended a National Putative Father Registry (Beck, 2002). There are many cases in which a putative father has sought to establish paternity in his home state, but the mother relinquished her child for adoption in a different state, so his effort to claim his child was denied.¹⁵ Senator Mary Landrieu introduced a bill in August 2006 that seeks to establish a National Putative Father Registry and offers grants to states to promote responsible fatherhood – the Protecting Rights of Unknowing Dads and Fostering Access to Help Encourage Responsibility (PROUD FATHER) Act, SB 3803.

Advocates recommend that the same level of diligence be applied to protecting men's rights in adoption as is used in the process of enforcing child support payments, including application of the Federal Parent Locator System to find them (Sacks & Thompson, 2002; Finley, 2002).

We do not know to what extent fathers are involved in current adoptions. California's adoption statistics provide the most significant source for addressing this question, since detailed information is seldom collected in the rest of the country. In FY2001, 28 percent of independent adoptions in the state involved a presumed father, and these men were more likely to sign consents than were alleged fathers (72 percent to 12 percent). Overall, the presumed or alleged fathers signed consents, waivers, or denials in 37 percent of 886 independent adoptions; this figure was 50 percent in private agency adoptions. The bottom line is that men assent to their children's adoption in fewer than half of all cases; what is not documented is the extent of their involvement – during pregnancy or afterward – beyond this legal formality (CDSS, 2003a; CDSS, 2003b).

SUMMARY

Considerable progress needs to be made in improving both state laws and professional practices in order to fortify the rights of birthparents. Such reforms would help to improve the adoption process so that it best serves the interests not only of biological mothers and fathers, but also of adopted children and adoptive parents as well. Adoptions would have more secure legal foundations, and adopted children and their parents would have more information about both biological parents. The following goals are paramount in advocacy efforts:

- Require adoption practitioners to create (or obtain) and disseminate a document setting out birthparents' rights and responsibilities; it should be signed by clients and professionals near the beginning of their work together.
- Require at least two sessions of counseling with a qualified professional for all women considering adoption for her child, and a minimum of two additional sessions after placement.
- Legally mandate a minimum of several days to a week after childbirth before a relinquishment can be signed and require a significant revocation period during which return cannot be contested, except under extraordinary circumstances.
- Establish legally enforceable post-adoption contact agreements in all states' statutes.

¹⁵ See *Hylland v. Doe*, 867 P.2d 551, 555-56 (Oregon App. 1994); *Heidbreder v. Carton*, 636 N.W.2d 833 (Minn. Ct. App. 2001), *review granted*, 2002 Minn. Lexis 87 (Feb. 19, 2002) (No. C0-01-739); *Beltran v. Allan*, 926 P.2d 892, 894, 898 (Utah Ct. App. 1996); *C.F. v. D.D.* (*In re* Adoption of B.B.D.), 984 P.2d 967, 969, 974-75 (Utah 1999).

- Provide more aggressive protection of biological fathers' rights by requiring identification by the mothers whenever possible, making consistent good-faith efforts to find and notify them, and including them in the adoption process whenever and to whatever extent possible.

PART III: COMING TO TERMS WITH ADOPTION LOSS: THE REST OF THEIR LIVES

In the past, the advice typically offered to birthmothers was to not think or talk about their babies and to put this episode behind them and get on with their lives as though nothing happened. Forgetting about a child they carried and to whom they gave birth turned out to be excruciating, impossible, or both for many if not most women, however. And so the psychological toll was enormous. While some progress has been made in preparing prospective birthparents to expect significant grief reactions and providing services to support them, practitioners and society in general are just beginning to address the needs of the affected women and men.

For many decades, birthparents were largely rendered invisible, and so their needs went unexpressed and unheard. Considerable attention has been paid recently to the insensitive and inhumane aspects of many adoptions conducted in this country in previous generations through Ann Fessler's (2006) book, *The Girls Who Went Away*. Beginning in the 1970s, birthparents began to come together and publicly express their painful feelings and experiences. In 1976, Concerned United Birthparents (CUB) was founded to provide support, to educate the public, and to advocate for more ethical adoption practices and laws. CUB and other advocacy organizations have stimulated greater understanding and empathy for the needs of birthparents. The American Adoption Congress, founded in 1978, brought together advocates for adoption reforms – including for birthparents.

The central question that surfaces in any discussion of a woman's (or man's) adjustment after placing a child for adoption is: To what extent are there negative long-term consequences? The corollary questions flow from that one: What factors are linked with unresolved grief reactions and what can be done to cope with or even prevent them? And, are there other negative effects that result from this experience?

Although much more study is needed to find good answers, there is a body of research and theoretical knowledge that can shed light on these issues; the ensuing section of this report will analyze that research and knowledge. It will not present an exhaustive examination, but will highlight significant findings of primary studies. Two sources are recommended for a more detailed summary of this body of research: Mary Wiley and Amanda Baden's (2005) review of research on birthparents in adoption and Madelyn Freundlich's (2001) synthesis of existing knowledge on this topic. Although most of the Adoption Institute's analysis focuses on birthmothers, comparable themes and challenges apply to birthfathers. Quotations from birthparents are used throughout this paper in an effort to effectively reflect their experiences.

RESEARCH ON THE IMPACT OF RELINQUISHMENT ON BIRTHPARENTS

The literature and research on women who surrendered children for adoption in the era of pervasive secrecy recounts an ongoing, negative impact in many areas of their lives. Much of the early research was done in Australia and is so homogeneous that it has been referred to as the Australian

point of view (Freundlich, 2001). Themes of chronic, severe grief resulting in ongoing psychological and interpersonal difficulties are characteristic of this body of work and in many of the clinical studies conducted in the U.S. and other countries up to the present. For example, a recent qualitative study from Australia analyzes the experiences of 11 birthmothers' adaptations to being separated from their children (Farrar, 2005). The following quotes reflect common themes in studies:

The wound is not healed. There is no real cure for this hurt. It has become a familiar emotional lump, lodged somewhere in my brain. I live now with the tears very close under the surface. It is still very raw. It has become part of me, part of my mental baggage. It never goes away. The hurt was so deep, the wound so primal.

And for that month afterwards, and for all the endless months, there's this awful, awful aching pain that doesn't seem to go away. For years and years and years.

I didn't feel ordinary. I felt old, different, damaged. My heart grew colder and the wall between myself and other people grew thicker and higher (p. 69)

LIMITATIONS OF THE BODY OF RESEARCH ON BIRTHPARENTS

There are many methodological problems that limit our ability to generalize much of the research on the long-term adjustment of birthparents. The primary problem is sampling procedures, in that most studies have used either clinical or self-selected samples, such as the members of support groups, which may be biased toward individuals with more adjustment problems. Also, much of the research is retrospective in nature, often asking women to reflect on two or three decades of their lives and recall their thoughts or feelings from the past. Many studies do not use comparison groups of women who parented their children or a general population of women in the community. Also, very few studies utilize standardized instruments to assess conditions such as grief, depression, or low self-esteem. Finally, most studies do not enable us to analyze the results by cohort, type of adoption, or adoption practices experienced; for example, women experiencing confidential adoptions in the 1950s are indistinguishable from those in open adoptions in the 1980s in many studies.

One of the earliest efforts to address some of these methodological problems by recruiting subjects from wider situations, employing standardized instruments, and using a comparison group of community women was an Australian study by Winkler and van Keppel (1984). They studied 213 women who relinquished children between four and 20 years prior to the research. They analyzed stressful life events, utilized an adjustment rating scale and a health questionnaire, and focused on other aspects of birthmothers' experiences. Overall, 28 percent reported below-average adjustment at the present time, and about half reported an increasing sense of loss since placing their children. They reported more psychological impairment than women in the comparison group. Three factors were identified as key risk factors for poor adjustment: the lack of opportunities to talk about their feelings related to the adoption, a lack of social support, and an ongoing sense of loss. In critiquing this study, Brodzinsky (1990) raises the need for the use of validated measures of loss or grief.

The only published study to utilize a standardized measure of grief analyzed variables that were related to the level of grief experienced by 264 birthmothers who were recruited for the project from adoption organizations, by word of mouth, and through the media (De Simone, 1996). Relinquishment for these women occurred 25 years ago, on average, and 34 percent had never had another child. This study does not report the extent to which these women as a group had resolved their grief, only the factors that were significantly related to high levels of unresolved grief. These include perception of coercion by others in the decision (46 percent reported the decision was "not at all as I wanted"); a high level of grief and shame; a lack of opportunity to express feelings regarding the relinquishment; uncertainty over the loss due to the continued existence of the child; and involvement in searching. Some of the variables that were found to moderate grief included

satisfaction with current marital status and with personal achievements such as raising a family or having a career. Significantly, women who had received information about their children since placement had lower levels of grief.

While the study above was published only a decade ago, the adoptions experienced by these women occurred, on average, 25 years earlier. The outcomes for adoptions of that era – in which women usually felt they had no choice or were coerced, were not able to talk about their experiences, and were given little or no information about the homes their children went to or how they were doing over time – consistently show a significant proportion with chronic, unresolved grief.

Only a few studies have examined broad-based samples of birthmothers experiencing adoptions in the era of greater openness in adoption practices. The Adoption Institute identified three that looked at the post-adoption adjustment of large samples of birthmothers in recent times. All used comparison groups of women parenting their children and focused on those who were adolescents at the time they gave birth. Two studies used longitudinal designs, with four years after placement being the longest follow-up time. The overall findings of these three studies will be discussed in-depth because they represent the most reliable source of information on outcomes in recent adoptions. First, the context of each will be described.

McLaughlin, Pearce, Manninen, and Wings (1988) surveyed adolescent clients served from 1977 through 1984 by an adoption agency in the Pacific Northwest that practiced open adoption. The researchers reported a very high response rate (74 percent for parenting teens and 89 percent for those who placed their children). These young women had given birth from six months to seven years prior to the study; for two-thirds, it had been within the past three years. Both sociodemographic and social-psychological outcomes were compared for 146 women who placed their children for adoption and 123 women who chose to parent.

Donnelly and Voydanoff (1996) studied 181 pregnant adolescents recruited from public health clinics, crisis counseling centers, and an Ohio social service agency; the researchers collected data by interview just after childbirth and then 6, 12, and 24 months later. Overall, 113 adolescents completed all the surveys – 26 who placed their infants for adoption and 87 who were parenting. These groups were compared on satisfaction with their decisions, mental health, socioeconomic factors, and sexual risk-taking behaviors.

Researchers at Columbia University (Namerow, Kalmuss, Cushman, and Bauer) conducted a longitudinal study of a large sample of 592 pregnant, unmarried women age 21 or younger, recruited from maternity homes, adoption agencies, and teenage pregnancy programs (92 percent of those who placed their babies for adoption were maternity home residents). Only 10 percent of the young women at these sites who met the criteria of the study declined to participate after being provided information about it. Fifty-four percent of those in the original sample group wound up parenting and 46 percent placed their babies for adoption. Women were interviewed in their last trimester of pregnancy, at a six-month follow-up, and again after four years. A substantial number (406) stayed with the study for its duration. The researchers analyzed sociodemographic and social psychological outcomes, and also collected data on adoption practices experienced by those women who placed their children (Kalmuss, Namerow, & Bauer, 1992; Cushman, Kalmuss, & Namerow, 1993; Namerow, Kalmuss, & Cushman, 1997; Cushman, Kalmuss, & Namerow, 1997).

SOCIODEMOGRAPHIC OUTCOMES

Overall, these studies found that teen mothers who chose adoption completed more years of education, waited longer to get married and have other children, had a higher socioeconomic status, and were more likely to be employed than those who chose to parent their infants (McLaughlin, et al., 1988; Donnelly & Voydanoff, 1996; Kalmuss, et al., 1992; Namerow, et al., 1997). However, two of

these studies used multivariate analyses to control for other variables and found that many of these differences disappeared when controlling for background variables; that is, some differences were associated with other life circumstances rather than with the choice of parenting or adoption.

Education. Namerow and colleagues (1997) found more than two-thirds of parents (71 percent) and more than nine-tenths of placers (91 percent) had completed high school at the time they made their decisions; there was no significant difference between the two groups four years later, however, in whether they had attended school after their child's birth. Also, women placing their children aspired to somewhat higher educational goals, and were more likely to go to college. McLaughlin and colleagues (1988) found that after controlling for background characteristics and the amount of time that had passed since the birth, attaining a high school diploma was not affected by the decision to parent or relinquish.

Marriage. Soon after giving birth, women choosing adoption were less likely to be married, but by four years later, they were more likely to be married than those parenting (31 percent to 22 percent). Those who chose to parent were more likely to be cohabiting at the time of follow-up than those who placed (20 percent to 10 percent) (McLaughlin, et.al, 1988; Namerow, et al, 1997).

Fertility. Teens who chose parenting conceived again sooner, even after controlling for differences in marital status. For example, McLaughlin and colleagues found that by three years post-partum, 52 percent of this group, compared with 37 percent of women who placed their first children, had become pregnant again. At the last follow-up of the four-year longitudinal study, 67 percent of those parenting had become pregnant again, compared to 42 percent of those placing (Namerow, et al, 1997). Another study reported that parenting teens were more likely to be involved in risky sexual activity, defined as not using contraception (Donnelly & Voydanoff, 1996).

Economic well-being. Young women choosing adoption were more likely to be employed and less likely to be receiving public assistance, according to these studies. For example, at the four-year mark in Namerow, et al (1997), 70 percent of those who placed were employed, compared to 47 percent of those who chose to parent.

SOCIAL PSYCHOLOGICAL OUTCOMES

Satisfaction with decision. In each of these three studies, women were asked questions related to their satisfaction with their decisions to either place or parent. The large majority of respondents expressed satisfaction with their choices, although those who parented were more satisfied. At the four-year follow-up, 91 percent of the first group and 78 percent of the second responded that they were very certain they would make the same decision again (Namerow, et al 1997). Those who opted for adoption expressed a higher level of regret. To some extent, this is to be expected, as it is unlikely a mother would say she regrets keeping her child. Namerow and colleagues (1997) reported higher levels of regret six months after placement than at four years. At the last follow-up, when asked their amount of regret about how they resolved their pregnancies, the responses were none (66 percent), a little (13 percent), some (11 percent), and a lot (10 percent).

Other emotional responses. The four-year longitudinal study evaluated the emotional responses of the young women to their adoption decisions. They were asked to rate their current feelings regarding placing their babies on a four-point Likert scale on the dimensions of grief, worry, sadness, relief, and peace. The responses of the 171 birthmothers were as follows:

	None	A little	Some	A lot
Grief	55%	29%	7%	9%
Worry	49%	25%	17%	9%
Sadness	56%	28%	10%	6%
Relief	4%	10%	27%	59%
Peace	9%	6%	11%	74%

Hence, it is apparent that slightly less than 10 percent of respondents were experiencing extreme negative emotions related to their adoption decisions, and about 15 percent were experiencing moderate negative emotions. Worry was the most commonly reported negative emotion experienced by these young women (Namerow, et al., 1997).

Self-satisfaction or life satisfaction. In comparisons on this variable, studies found either no differences between the two groups (McLaughlin, et al., 1988) or higher levels of satisfaction among women choosing adoption (Namerow, et al, 1997). The latter study found that in terms of life satisfaction, those who placed were significantly more contented with most aspects of their lives – overall satisfaction with life, work, financial situation, quality of relationship with partner, and future outlook. However, when controlled for post-birth marital and fertility status, the differences on most of these variables disappeared; in other words, the differences on these social-psychological outcomes four years after birth were attributed to their varying marital and fertility experiences rather than their decisions concerning parenting or placing their first children. The authors conclude, “This suggests that placers are more likely to be satisfied with their lives overall and more optimistic about what their lives will be like when they reach thirty, in part, because they are less likely to be living in poverty” (Namerow, et al, 1997, p. 193).

Depression. One study used a brief depression scale and found no significant difference on depression between the two groups (Donnelly & Voydanoff, 1996). The four-year longitudinal study also used a depression scale at the final data collection point, finding a slightly higher level of depression among those who parented than those who placed (Namerow, et al, 1997).

ADOPTION PRACTICES AND SOCIAL PSYCHOLOGICAL OUTCOMES OF BIRTHMOTHERS

Cushman, Kalmuss, and Namerow (1993, 1997) also studied young women’s pre-relinquishment experiences and their experiences related to adoption practice. The researchers explored the extent to which study participants felt pressured by adoption professionals to relinquish their babies. Ninety-three percent of the teens who placed had talked with a counselor or social worker about their options. In response to the question, “What did the counselor/social worker want you to do?” 51 percent perceived that at least one service provider wanted them to place their babies. However, only 9 percent of respondents in pre-birth interviews and 6 percent in post-birth interviews stated that they had felt pressure from the agency or residence to choose adoption. The vast majority perceived signing the relinquishment papers as one of the most difficult parts of the process.

Of these respondents, two-thirds helped choose the adoptive parents for their babies, and 54 percent received ongoing pictures or letters. At the final follow-up, only 12 percent said they had phoned or visited since placement; so fully disclosed adoptions were not typical among this group of women. These researchers related agency practices to the level of grief, regret, and other emotions that birthmothers reported at the six-month and four-year follow-up periods. In the short-term, women who had interacted more with their babies and had helped to choose the adoptive families had a higher level of grief, which the authors interpreted as appropriate and healthy for six months after birth. Those who felt pressure to place their babies also had a higher level of grief and regret, and were less likely to state they would make the same decision again. Also, young women whose

babies went into temporary foster care instead of going directly to the adoptive families reported higher levels of grief and regret at the six-month follow-up.

At the four-year follow-up, it became clear that participating in the choice of an adoptive family was the practice that had the most benefits for the women involved. Those who did this (69 percent) reported lower levels of grief, regret, worry, and sadness, and higher levels of relief and peace, than the mothers who did not have this opportunity. Also, those who had contact with the adoptive family since placement had lower levels of grief, regret, and worry and more peace with their decisions than those who had not had this opportunity (Cushman, et al., 1997).

INSIGHTS FROM MINNESOTA-TEXAS ADOPTION PROJECT

There is a growing body of research on open adoption practices, although most of these studies examine outcomes of adopted children and families more extensively than outcomes for birthparents. Several studies have examined outcomes related to birthparent adjustment and report that they liked meeting the adoptive parents and felt reassured about their children's well-being when they were able to maintain some contact (Dominick, 1988; McRoy, Grotevant, & White, 1988; Grotevant & McRoy, 1998). One study reported more negative outcomes for birthparents in open adoptions; however, only 18 of the 59 adoptions studied were open, which was defined as meeting the adoptive parents, not as having post-adoption contact (Blanton & Deschner, 1990).

The Minnesota-Texas Adoption Research Project (MTARP) undertaken by Grotevant and McRoy is the most extensive study of open adoption ever conducted and has been ongoing since 1987. Based on interviews with a sub-sample of 75 women, the MTARP analyzed birthmothers' overall adjustment and grief resolution at least four years following placement, rating both on a five-point scale from very poor to very good. Age at time of placement (teen birthmothers vs. those 20 and older) did not have a significant correlation with long-term adjustment (McRoy & Grotevant, 1998).

The MTARP found that birthmothers in fully disclosed adoptions (all parties share their identities) had significantly better grief resolution than those in confidential adoptions at both the first and second follow-up periods of their longitudinal study (Grotevant & McRoy, 1998; Christian, McRoy, Grotevant, & Bryant, 1997; Henney, Ayer-Lopez, McRoy, & Grotevant, submitted). Those birthmothers involved in time-limited mediated adoptions, in which there was an agreement to receive ongoing information about their children but it had ceased, were the most likely to have very poor grief resolution scores. Overall, a wide range of grief resolution was found within each type of arrangement. At Wave 1 of the study (on average 8 years after placement), the percentage rated as having a good or very good level of grief resolution by type of adoption were: confidential (30 percent), time-limited mediated (25 percent), ongoing mediated (52 percent), and fully disclosed (68 percent). At Wave 2 of data collection, approximately 15½ years after placement, there had been a decline in grief experienced by most birthmothers, particularly those in fully disclosed adoptions. Another noteworthy finding from this study was that birthmothers who were still in relationships with the birthfathers were at greater risk for prolonged grieving.

An extension of the MTARP studied "psychological presence" of a child relinquished for adoption, that is, the extent to which the child continued to exist in the heart or the mind of the birthparent. This analysis of interviews with 163 birthmothers showed that the women continued to think about their children not only on special occasions, but in their day-to-day lives. On a scale of 0-5, with 0 representing no psychological presence, and 5 representing high frequency and high emotional intensity of thoughts of the child, the mean rating of 3.6 indicates that birthmothers think of their children with moderate frequency. Birthmothers in fully disclosed adoptions said they thought of their children more often than those in confidential adoptions. The valence of thoughts also was coded from very negative to very positive. As the type of adoption progressed from confidential to fully-disclosed (classified according to four levels), the valence of psychological presence increased in a

positive direction. This study underscores that birthmothers do not forget the children they relinquish for adoption (Fravel, McRoy, & Grotevant, 2000).

RESEARCH ON BIRTHFATHERS

Only a handful of studies have explored the perceptions of birthfathers about their adoption experiences or their long-term adjustment. In fact, this collective body of research has examined the experiences of only 125 birthfathers in the U.S. (recruited through CUB and other adoption organizations), 60 in England who had signed up with a search registry, 30 in Australia who responded to outreach efforts, and 30 in Scotland who registered with a search registry (Deykin, Patti, & Ryan, 1988; Witney, 2004; Cicchini, 1993; Clapton, 2001). These subjects total fewer than 250 individuals out of the millions of birthfathers involved in adoptions across these four countries.

In all of the studies, the majority of men surveyed or interviewed reported that they were not included in the adoption process, and many of those who were said they were inadequately involved; some said their only participation was signing a legal document. Many expressed feeling distress, resentment, and confusion about the adoption. One father expressed his feeling about being excluded from the decision-making this way:

I saw the social worker once. I can remember being asked to sign a form and all this took place in a car park. After 27 years I can't stop thinking about that woman in the car and signing those forms. I've never forgotten it. I've carried it all my life... Most upsetting is the way it was done. It was terrible (Witney, 2004, p.57).

In addition, the majority of birthfathers studied described their relationships with the birthmothers as loving and stable. In the U.S. study, nearly 10 percent were married to the birthmothers at the time of adoption, and 44 percent had married the birthmothers at some point. For some of these men, the split from the child was connected to the split from their partners, often due to pressure from the birthmother's family.

The vast majority of birthfathers retained a sense of connection to their children and a psychological feeling of responsibility. Most men had never even seen their babies, yet they reported thinking about them frequently, a reality – as pointed out by several authors – that challenges the stereotypical view of fatherhood being defined by men based on active parenting (Clapton, 2001; Cicchini, 1993). The three studies conducted outside the U.S. were very in-depth, focusing on the subjects' emotional and psychological adaptations. Of the 30 men interviewed by Clapton, seven described painful emotions that remained at the same intensity or increased over the years, such as thinking of the children daily and an insatiable need to know what became of them. About 20 percent said they felt little impact initially but experienced stronger feelings about the adoption as they matured.

In the American study, men were asked about the impact on their marital and parental relationships. Of those responding, 22 percent perceived their adoption experiences as having a negative effect on their marriages, and 29 percent perceived a negative impact on their parenting function.

The researchers in all these studies concluded that, despite the small and unrepresentative groups involved, the results indicate the adoption experience has a much greater impact on birthfathers than was previously assumed. Those men with a greater commitment to their partners were particularly vulnerable to ongoing feelings of loss that deeply affected them throughout their lives. Much more research on birthfathers clearly is essential to better understand them and their needs.

NEEDS TO ADDRESS IN FUTURE RESEARCH

Overall, there are no studies of long-term adjustment that are representative of the population of birthparents choosing adoption in the 21st century. Future research on birthparents needs to incorporate the following:

- longitudinal designs that use broad samples of birthparents
- comparison groups of parents who are raising their children
- standardized instruments administered before birth and at follow-up periods
- practice variables including timelines of decision-making and relinquishment
- more information on the involvement of birthfathers in the adoption process
- what post-adoption services are desired by birthparents and which are utilized
- level and quality of ongoing contact with adopted children and their families

CRITICAL AREAS OF BIRTHPARENTS' ADJUSTMENT AFTER ADOPTION

All mothers and fathers who plan adoptions for their children come to this decision from different sets of life circumstances and with their own unique outlooks and coping abilities. Nevertheless, some common themes and challenges characterize the birthparent experience, and the research points to four critical areas of adjustment that must be mastered in order for birthparents to integrate the adoption of their children into their lives without undue negative, long-term consequences. These are: 1) resolving grief from adoption loss; 2) making peace with the decision; 3) incorporating being a birthparent into one's identity without lowering self-esteem; and 4) overcoming the impact of the experience in intimate relationships. These are not distinct from one another but are intertwined, with difficulties or successes in each area of adjustment spilling over into others.

Many barriers hinder healthy adjustment for birthparents. In the past, those included the stigma surrounding unwed pregnancy, the code of secrecy imposed on these women and men, and external forces that coerced parents into choosing adoption. Adoption laws and practices that posed immutable obstacles to obtaining information about birthparents' children and their well-being over time also served to increase anxiety, guilt, and regret. Women and men participating in domestic infant adoptions prior to the 1970s and '80s were given very few opportunities to exercise self-determination in the planning for their children. Today, almost all of them participate in selecting the adoptive parents. Many have ongoing contact with the adoptive families, so they have an ongoing understanding of how their children are doing, rather than fantasies or fears.

A critical condition for facilitating adjustment is social support both during pregnancy and for the years following adoption. In the era of secrecy, it was very difficult for birthparents to talk about their feelings and to receive help from those close to them. Conditions have improved, but the nature of adoption loss and the uncommonness of this experience still make accessing social support difficult for many of these women and men.

One important caveat needs to be made before discussing the challenges birthparents address in dealing with adoption: There are many women and men today who make successful post-adoption adjustments and feel pride and confidence about their choices. So, in addition to needing more competent and current research on birthparents' needs and adjustment issues, greater understanding is also required of those parents who adjust well to informed adoption decisions.

TASK ONE: RESOLVING GRIEF FROM ADOPTION LOSS

The paramount impact of the birthparent experience is the loss of one's child. Even in open adoptions involving ongoing contact with their children, birthparents experience overwhelming sadness and pain at the separation. A birthmother, in particular, has felt intimate closeness with her baby during pregnancy and during/following birth; the subsequent parting from her child has been described by some as a type of amputation (Jones, 1993). While this loss is as profound for some women as a child's death, many unique aspects of adoption make it difficult to grieve.

If a child dies, there are widely accepted mourning and grieving rituals, as well as support systems to help a parent to eventually come to terms with the loss. Family members, friends, and acquaintances rally around the mother with condolences and loving support. Friends provide ongoing comfort and are sensitive to situations that might trigger pain. Society recognizes the intensity and lifelong nature of the feelings. Adoption loss, unlike death, is ambiguous for the birthparents and poorly understood by the people around them, so normative, socially accepted grieving is far more difficult.

Ambiguous losses are not clear or final and, according to Boss (1999), can take two forms – when the loved one is physically present but psychologically absent, such as when a parent has dementia; or when the loved one is physically absent but psychologically present, such as when a loved one is missing or has been adopted. Such losses are much harder for the people experiencing them to resolve because they are complicated and may be perceived as reversible. An early task of mourning is accepting the reality of the loss, an inherently difficult task that is all the more vexing in ambiguous loss. Birthparents face the additional complication of “disenfranchised grief.” That is, their losses are generally not afforded mourning or grieving rituals (Doka, 2002); they usually do not receive ongoing emotional support from friends and others (and sometimes do not even reveal the adoption); and most people do not recognize the depth or lifelong nature of their loss. In effect, the griever is denied permission to grieve. Disenfranchised grief is more complex and more resistant to recovery than grief that is acknowledged, understood, and supported.

According to Tubbs and Boss (2000, p. 286), “ambiguous loss can be compounded by ongoing ambiguous responses to the loss.” Thus, when a birthmother does not receive help from anyone who truly understands her experience, she can feel totally alone and unable to cope with overwhelming feelings. A woman who participated in Simone's study of birthparent loss wrote:

I have never forgotten for one minute that I have a son 'out there.' It has always hurt worrying about him and not knowing if he's okay... I basically did not 'go on with my life' in some respects. Something in me simply stopped and never started again. I don't know how to explain it any better, but I never got over it. (1996, p. 72)

This description echoes the experience of many birthparents who describe being stuck for decades in their struggles to come to terms with their loss or grief about the children they placed for adoption.

A sociologist, Robert Weiss (1988), has published classic works on loss, the processes underlying recovery from it, and the barriers to recovery. He asserts that recovery from loss requires:

- cognitive acceptance (the development of a satisfactory account of the causes of the loss);
- emotional acceptance (processing the strong emotions and memories associated with the loss); and
- an identity change (a shift in one's connection to the attachment figure).

All of the barriers to recovery that Weiss (1988) posits are common in adoption loss, and all must be addressed for healthy grief resolution to occur:

- The loss is difficult to accept cognitively. Birthparents may continue to question their decisions, especially when they experience ongoing grief and anxiety.
- The person experiencing the grief has strong, ambivalent emotions toward the lost person, including self-blame, guilt and/or remorse.
- The individual has low self-esteem and feels that security can only be found by maintaining a relationship with the lost person.
- The person feels responsible and protective toward the lost attachment figure. This may lead to a need to maintain an ongoing connection to the lost person, even if it is through fantasy. An internal pledge never to forget may become a refusal to recover.

Stages in Resolving Grief. The complex layers of perceptions and emotions common in a birthparent's experience can make grieving immensely complicated. Several authors have analyzed the stages or key features of this process as it applies to birthparents (Roll, Millen, & Backlund, 1986; Roles, 1989b; Brodzinsky, 1990; Romanchik, 1999c). As with all models of psychological processes, these responses are not clear-cut steps in a progression toward resolution, but a range of interwoven reactions and adaptations. The end result of a healthy grieving process is the ability to re-engage in life and to have a sense of mastery rather than powerlessness in relation to the experience. That does not mean one becomes immune to feeling pain and/or sorrow from time to time. Grief has been compared to waves in the ocean. At first, they are high and close together, but eventually, they get smaller, further apart, and can no longer knock us down.

- Shock and numbness: These are common immediate responses, masking or delaying the full force of the loss. Denial and avoidance are common ways of coping early on; however, some birthparents repress their feelings for so long that they develop pathological grief reactions, such as psychosomatic illnesses. Secrecy in adoption reinforces denial of feelings associated with grief and delays work on grief. Some women bury their pain so deeply that they block memories and feelings for years, only to find that they bubble up later in life, often in response to an event such as the birth of another child, the death of a loved one, or a reunion with the adopted child.
- Flooding of raw emotions: As a full realization of the loss sets in, birthparents can be bombarded with a range of intense and painful feelings – anger at self and others, guilt, self-blame, deep sadness, yearning, and depression. Romanchik (1999c, pp. 3, 6) poignantly describes her experience of profound grief after her son's adoption, which she experienced emotionally as if it were a death even though intellectually she knew they would have an ongoing relationship.

A lot of what I was feeling was a profound loneliness. During my pregnancy I spent a lot of time 'communicating' with my son, feeling him kick, watching him move, talking to him. After he left with his adoptive parents I felt so deeply alone...I was overwhelmed by the maternal feelings I was experiencing... Ten days after my son was born, I was in a store when an infant started crying. As soon as that baby began to cry, I felt as if someone had knocked the wind right out of me. I had to find a place to sob.

Birthmothers' accounts of their experiences often describe being flooded by acute sorrow and emptiness, along with a sense of panic that the feelings will not go away. Sometimes this leads to searching behavior, such as scanning crowds in the hope of spotting their children, being preoccupied with fantasies about them, or experiencing nightmares and extreme fears about their well-being.

Anger and guilt are key features of grief and are common in adoption loss. Birthparents often have strong anger toward themselves and others, particularly if they felt coerced. A minority of women

are unable to work through these reactions on their own. In their analysis of pathological bereavement among some birthparents, Millen and Roll (1985) discussed the complications of resolving anger and guilt. They analyzed the responses of 22 birthmothers receiving counseling for unabated grief problems and observed that these women demonstrated an intensification of anger at themselves and at third parties over time, rather than a lessening of these emotions.

Integration of the Loss and Reorganization: Resolving grief involves acknowledging the range of losses associated with adoption, understanding what these mean in one's own life, and determining how to best cope with the resulting life changes. Birthparents experience many secondary losses, including of friends who are not supportive, of approval from or contact with family members, of jobs, of dreams about what they will do or achieve in life, and/or of aspects of self-image and self-esteem.

In adaptive grieving, individuals can talk about their thoughts and feelings, and can gain understanding and support from others. This processing occurs repeatedly and leads to some diminishing of the intensity of painful feelings. Most significantly, the search for the meaning of a loss helps to put it into a perspective that allows for the grieving person to come to terms with it and to reinvest in other aspects of her/his life. There are optimal conditions to promote adaptive grieving in birthparents including:

- a safe environment that recognizes the validity of the loss and is devoid of stigma,
- freedom to express feelings and to behave differently (people in bereavement need a lessening of responsibilities and an opportunity to grieve),
- proximity, empathy, and warmth – being understood by others, the complementary component of a birthparent's expressing his or her grief,
- rituals of passing – help birthparents create symbolic ceremonies that celebrate their children's birth and mark their loss,
- opportunity for reorganization – help birthparents in psychological restoration by addressing ongoing needs for information, grief counseling, or other assistance (Brodzinsky, 1990; Millen & Roll, 1985).

Birthparents have reported difficulty in finding counselors who understand the nature of their losses. Mental health professionals generally receive little or no training related to adoption issues, and there is no body of literature or research on interventions to assist birthparents after adoption (Brodzinsky, 1990; Wiley & Baden, 2005). Addressing this void is a critical step in serving the needs of birthparents after adoption.

Shift in Perception of Role to Child: Grieving individuals in most contexts gradually shift from focusing their thoughts and feelings on the lost person to reinvesting their emotional energy to other relationships and activities. For birthparents, this involves an alteration in their identification with their children. This is similar to Weiss' (1988) observation of the identity change that must occur in mourning a deceased loved one. With a death, the connection to the attachment figure is seen as part of a past self rather than a present self. This identity shift is more ambiguous, and therefore more difficult, with a child who was adopted and is still living.

A growing number of researchers, practitioners and other experts believe that open adoption facilitates the birthparent shift in identification. The biological parents need to accept that they will not raise the child, and that while they will always have emotional and perhaps physical connections, the adoptive parents are the child's psychological parents (Chapman, Dorner, Silber, & Winterburg, 1986).

Brenda Romanchik (1999c, p. 8) describes this shift in the definition of the birthparent role:

Resolving grief is not only about understanding and accepting what we have lost and feeling the pain, it is also about integrating that loss into our lives. This means redefining our relationship with our child from caregiver to birthparent. Feeling comfortable as a birthparent will not be a simple task. There are no role models to go by... One of the most frequently asked questions I get is what my relationship with Matthew compares to. Does he see me as an aunt or close friend of the family? ...my relationship to him alone can only be described as being his birthmother. In being a part of his creation, in nurturing him during the months before his birth and in the days after, I am to him what no other can be.

In an open adoption, developing a satisfying relationship between the birthparents and the adoptive family is an adjustment process in which complicated, intense emotions and needs of all parties may sometimes lead to rifts, misunderstandings, or withdrawal. Individuals' perceptions may be based on emotional defensiveness, without true awareness of what underlies their interactions. Sometimes, birthparents withdraw because of difficulty dealing with their own pain or tensions induced by a spouse. Adoptive parents may feel threatened by the intensity of a birthparent's grief and/or her need for closeness to the child. They also may not have been prepared to understand the benefits of open adoption for their child or to address their own insecurities and loss issues. In their book *The Open Adoption Experience*, Lois Melina and Sharon Kaplan Roszia (1993) offer guidance for both birthparents and adoptive parents to facilitate the evolution of successful open relationships.

When women and men make adoption plans that include ongoing contact – whether by exchanging letters and pictures mediated through an agency or with direct, personal relationships – having the arrangement terminated or greatly diminished by the adoptive family can be extremely painful and can even feel like losing the child all over again. The pattern and quality of interaction between the involved parties is a critical variable in the birthparents' struggles to come to terms with their loss.

The body of research reviewed earlier indicates a significant minority of birthmothers have complicated, ongoing grief reactions, and many report an increase in their sense of loss over time. For some women in confidential adoptions, true resolution of grief comes only after reunion with their adult children and a growth in that relationship. Some reunions do not go well, of course, so they do not lead to satisfactory closure and grief resolution – although some women report that the very process of finding their children provides solace and helps them cope. There is little research or even experience-based knowledge about facilitating healthy grieving for birthparents. This area of practice needs much more attention, as does the development of post-adoption services.

Birthparents may be reluctant to return to the people who facilitated their placements for later services because of the painful associations involved. So providers other than adoption agencies are needed, including professionals who can make home visits and specialized mentoring programs. Community-based and online support groups are also important. For example, the Kinship Center in California offers a community support group run by agency staff that is free and open to everyone participating in an open adoption. This monthly group helps everyone involved with solving problems and supporting each other to develop strong networks that bolster their adoptions.

TASK TWO: ACCEPTANCE – MAKING PEACE WITH ONE'S ADOPTION DECISION

You give a child up in hopes of giving him/her a better life but you have all of this guilt connected with your decision. Guilt that you couldn't provide for them. Will they ever know that your decision was one of the most unselfish decisions of your life? Will they know that you love them more than you can explain? All of these questions and more are ones that you may never get answered. You never really get closure because you never know what has happened to your flesh and blood.

-- Birthmother's comment on a web-based support group

Birthparents' cognitive and emotional acceptance of their adoption decisions is an integral component of their ongoing adjustment process and their ability to resolve the grief over their losses. One of the most basic conditions to facilitate their ability to come to terms with their decisions is information about their children's well-being; indeed, a desire for information about children placed for adoption is almost universal. Sue Wells' (1993) study of birthmothers in Britain, who ranged in age from 22 to 81, found that all but nine of the 262 respondents wanted basic information about their children. The same number – nine of 262 – wanted to preserve the secrecy of their identities.

Birthparents in confidential adoptions often report experiencing strong fears, premonitions, or nightmares. When they hear of children being killed, they worry it might be theirs (Howe, Sawbridge, & Hinings, 1992). If similar feelings occur in a more open adoption, there are ways of learning the truth and gaining reassurance. Living with the uncertainty of what became of their children has been identified by birthparents in confidential adoptions as the most difficult factor to cope with, and receiving information about their children has been singled out as the most important thing that would have brought peace of mind (Roles, 1989b, Wells, 1993; Field, 1992).

New Zealand's law gives both adoptees and birthparents access to identifying information when the child reaches age 18. A study in that country contrasting birthmothers who had experienced reunions with those who were awaiting this possibility found that lack of information was associated with higher feelings of guilt and lower psychological well-being for the women who had no information about their children (Field, 1992).

Even birthparents who have information and ongoing contact with their children can struggle in coming to terms with their decisions. The search for meaning is a common human reaction to traumatic experiences, and one that may continue over many years. Birthparents grapple with finding answers to such basic questions as: *Did I do the right thing? And: Will my child hate me for this?* At some level, most birthparents might always live with some uncertainty – wondering what would have happened if they had made a different choice. Lynn Franklin (2005) wrote of her own struggles with the “what if” question soon after being reunited with her son:

I realize that there are no real answers to this question, and I will never know if I made the “right” decision. I know simply that my baby was adopted by wonderful parents who love him every bit as much as I could have (p. 191).

While many women in confidential adoptions achieve a sense of closure and acceptance after reunion, some find that their adopted children did not have the happy lives they had hoped for. Others who may be overjoyed at the initial reunion are devastated when the adoptee does not want an ongoing relationship. Reunion in itself does not necessarily lead to closure and acceptance for these birthparents, though some report the very fact of seeing their children has palliative effects.

Proponents of open adoption believe that while contact may sometimes be painful for birthparents, especially early in the adoption, at a minimum it alleviates their anxiety over their children's whereabouts or well-being. Receiving pictures and progress reports in mediated contact through an agency also provides some reassurance to birthparents. This security about their children's welfare helps to facilitate coming to terms with their decisions, as reflected in this birthmother's reflections:

I feel good about what I did. I still think I did the right thing, and I feel good about that ... when I see pictures of how happy they are, that makes me happy, and feel good about what I did...for a while I was really jealous, but not anymore (Lancette & McClure, p. 91).

Often in the initial stages of loss and sometimes for many years, birthparents struggle with feelings of ambivalence, anger, guilt, and regret. They feel anger at themselves, as well as at anyone they perceive pressured them to make this decision or failed to provide needed support. They may feel

angry at or resentful of the agency or person who facilitated the adoption, sometimes because they feel they were not provided with enough information about the option of parenting their children. Generally, the more they felt coerced into relinquishing, the greater their anger and regret, and the harder it is for them to come to terms with their decisions. Research findings across many studies consistently attest to the reality that feeling pressured into placement is linked with poor grief resolution and greater negative feelings such as regret (De Simone, 1996; Cushman, et al., 1993; Cushman, et al., 1997).

Taking ownership of one's responsibility for the decision appears to be a pivotal aspect of acceptance and self-forgiveness. In her book *The Other Mother*, Carol Schaefer (who is herself a birthmother) describes her experience as a young caseworker visiting a woman in her early 20s who had decided to parent her son in spite of opposition by her parents and was managing to make a life for the two of them. Schaefer wrote that as she sat in her car after this visit: "*For the first time, I took full responsibility for not keeping my son.*"

Patricia Roles (1989a), a social worker and also a birthmother, wrote a book entitled *Saying Goodbye to a Baby* to assist birthparents in working through adoption loss. She suggests an exercise involving reconstructing the past to assist in resolving feelings such as regret, anger or blame that have persisted for many years. According to Roles, failure to come to terms with unexpressed anger or persistent guilt can lead to self-punishment or other self-defeating responses.

For some birthparents, coming to terms with the placement of a baby might also be tied to other relationships surrounding their decisions, particularly with the child's other biological parent or their own parents. Hurt and anger related to these relationships also need to be resolved over time.

Coming to terms with an adoption decision, like grieving, requires opportunities to talk about one's thoughts and feelings, social support and, above all, access to information about one's child. Adoption practitioners today often – and increasingly – offer reassurance to birthparents that they will be able to have a relationship with their children or obtain information about them. Changes must be made in adoption laws, however, to provide a legal foundation for greater openness, honesty and flow of information in order for these reassurances to become a sustained, prevalent reality.

TASK THREE: INCORPORATING THE BIRTHPARENT ROLE INTO ONE'S IDENTITY WITHOUT LOWERING SELF-ESTEEM

I was looking for some deeper awareness, and perhaps more importantly, acceptance of self. I had given up my child and had to find a way to live with that and not believe I was a terrible person... On some level, too, I felt like I deserved to be punished, and that I did not deserve someone's continuous love. Deep down I was prepared to believe I was not good enough to have another child (Franklin, pp. 100, 103).

In our society, becoming a mother is glorified, and a societal stigma is attached to women living apart from their children. According to Gustafson (2005, p.1), "unbecoming a mother – the process of coming to live apart from biological children – is variously regarded as unnatural, improper, even contemptible." This public image often is internalized by birthmothers as deep shame, and they harbor a sense of "differentness" that they feel sets them apart from others. They need to find a way to incorporate being a birthmother into their identities without lowering their self-esteem.

The past emphasis on secrecy in adoption reinforced a sense of stigma and shame. It isolated birthparents, causing them to feel different, unacceptable, and afraid. Shame is a particularly destructive emotion that undermines every aspect of a person's mental health – the capacity for self-acceptance as well as the ability to build relationships. Shame cuts to the core of our self-hood, the kind of people we are. In guilt, we believe we *did* something bad; in shame, we believe we *are* bad.

This stigma is reinforced by continued judgmental views and prejudices about birthparents in the media and within popular culture. Almost any account written by a birthmother contains numerous descriptions of demeaning or embarrassing interactions with others who stereotype her in a very negative way. For example, Romanchik (1999b, p. 13) reported her interaction with a midwife who commented, “It is no wonder you had such a long labor, your baby must have known he was not wanted.” She also observes that the converse, saintly image of the birthparent as a martyr is not a helpful one because it does not resonate as being true.

Feelings of shame are also more difficult to overcome when a young woman feels her pregnancy has fundamentally damaged her standing with her own parents. Accounts of birthmothers in the 1960s and 1970s often describe the devastation their pregnancies caused their mothers and especially their fathers, and the sense of shame they felt about so deeply disappointing their parents (Schaefer, 1991, Franklin, 2005).

While clinicians and the women themselves report ongoing struggles by birthmothers with feelings of shame and negative self-image, there is little research that examines the impact on self-image of placing a child for adoption. The Adoption Institute found only one study that administered a standardized measure of self-esteem (Weinreb & Konstam, 1996). This study, of 32 women who had relinquished infants five years earlier or longer, found that birthmothers scored in the moderate to high self-esteem range, so that there did not seem to be a profound negative impact on feelings of self-worth for women in these more recent – and presumably more open – adoptions.

This is an area of adjustment that birthparents must address both internally and in their relationships with others. Their ability to counteract negative messages about self is facilitated by acceptance and support from significant people in their lives, as well as by positive life experiences and accomplishments. Over time, they need to be able to own their decisions, to accept their altered roles, and to embrace whatever positive consequences may have resulted. Post-adoption services such as support groups and mentoring programs are resources for assisting birthparents to overcome their sense of “difference” or isolation.

Romanchik (1999b) observes that a woman’s identity as a birthmother is usually defined on the basis of the role she has given up – that is, as a parent to her child. Romanchik believes that finding positive meaning involves determining what role a birthmother *has*, what her role and responsibility is in relation to this child she gave life to. At the very least, a birthmother needs to honor the life she created and the decision she made. Romanchik describes achieving this insight in her own life:

I can still remember Mother’s Day the year my son was born. It was a holiday I was dreading, a cruel reminder of all that I had given up. One of my first stops was at a friend’s house. When her mother greeted me with a big hug and a heartfelt Happy Mother’s Day, I told her that I had no right to be called a mother to a son I wasn’t raising. She responded by angrily telling me that giving birth to a child gave me plenty of right, whether I was raising the child or not, and denying myself that right was like denying he was ever born. In the years since I have come to realize that she was right...I had spent all my time focusing on what I was not to my son, completely ignoring all that I am to him (p. 1).

Some now use the term “lifegiver” to describe the role of birthparent, a term that accentuates her/his positive contribution. Gritter’s (2000) book, *Lifegivers*, discusses why birthparents have enduring importance in an adopted child’s life. According to Gritter, parenting involves three fundamental dimensions: giving life, sustaining life, and affirming life. In adoption, birthparents give life, adoptive parents provide the day-to-day care-giving, and both play affirming roles for the child through ongoing, unconditional acceptance and unwavering interest.

Birthmothers who have relationships with the children they relinquished for adoption often report that seeing them and being a resource for them and their families helps them to affirm the decisions they

made and therefore to feel good about themselves. Many birthparents also find meaning in talking about their experiences and in educating others. Some seek to help other women and men who are considering placing their children – or have already done so – by becoming mentors or offering support in other ways. Still, a significant number of birthparents continue to struggle with long-term adjustment issues and seek therapy at various points in their lives.

TASK FOUR: OVERCOMING ADOPTION'S IMPACT ON INTIMATE RELATIONSHIPS

I began to meet people and to date. But I still felt unable to connect. Sometimes, after a date I would find myself in an enormous depression. I couldn't tell them who I was – a mother. Nor could I ever be the girl of their dreams. And each time I had to lie to someone about who I was, I was further cut off. Or maybe I was afraid, equating love with loss and not wanting to be vulnerable (Schaefer, pp. 150-151.)

The experience of loss through adoption can complicate future relationships in myriad ways. There is a sense of isolation that comes from attempts to share one's pain with others who do not really understand or empathize. There is mistrust and anger resulting from experiences of betrayal when a boyfriend or parents behave in rejecting or insensitive ways. And there is a fear of rejection, loss, or failure in intimate relationships or in parenting other children. It is not uncommon for birthparents to report that they never spoke of the adoption with their parents or spouses for decades after the event, even when they had all gone through the experience together. Franklin (2005) recounts the words of a birthfather, Jon Ryan¹⁶, who married his daughter's birthmother:

We stayed married for ten years, and after the day we signed the papers, we never once talked about our daughter. We never even discussed the possibility of having other children, which is not an unusual response for married couples who have given a child up for adoption (pp. 26-27).

Franklin also wrote that in her own experience, she never talked with her parents about the adoption in the years after the event and had hidden her anger toward them. After reuniting with her 27-year-old son, she addressed the subject with her mother for the first time:

We had never before talked openly about what happened, and now the burden of silence we had all carried was cracked open. She tearfully apologized for not offering me the chance to keep my baby. It hurt to hear her pain, but in truth I needed to hear her acknowledge her role. Any resentment I had harbored melted as our hearts opened to each other. We were communicating as we never had before (p. 189).

Not being able to communicate about something that consumes a large part of our thoughts and feelings sets up barriers in an intimate relationship, often causing guilt and anger. In previous generations, some birthparents went to their graves protecting their secret from all of their closest family members; that was the case in a story recounted by Pavao (1998) of an 84-year-old man, Sam, who received a phone call from the granddaughter of his deceased wife, Rose. Rose had relinquished this young woman's mother for adoption before marrying Sam and never told him or her subsequent children about her first child. Sam felt betrayed and angry that Rose had not trusted him enough to be honest, although he was later helped to better understand her situation.

¹⁶Jon Ryan was instrumental in organizing the National Organization for Birthfathers and Adoption Reform, and coauthored one of the few studies existing of long-term adjustment of birthfathers.

Birthparents need for those closest to them to understand their feelings, accept and support them in their decisions, and allow them to talk about their children and their own struggles in coming to grips with the adoption, both around the time of the event and in the years to come.

Schaefer (1991) described the difficulties her adoption experience caused in her marriage, which ended in divorce. Before accepting her husband's marriage proposal, she asked him to promise he would support her in ultimately searching for her son and to accept him as a part of her life, which he did. Then, years later, he asked her to forget about her first son, stop talking about him, and give up plans to search. He believed she was not being fair to their own two young sons by focusing so much on her first child. In a similar way, the spouse of a birthmother who has contact with an adopted child may ask her to end the relationship, thus placing her in an untenable situation.

One study of birthparents that raised concerns about adoption's impact on future relationships was a survey of 334 members of CUB (Deykin, Campbell, & Patti, 1984). The majority of respondents stated that their experiences had colored their marital interactions (71 percent), and those with children said it had a powerful impact on their subsequent parenting (80 percent). Over 30 percent of respondents had not had another child either because they chose not to (17 percent) or could not (14 percent). Other studies also have found an increased incidence of secondary infertility among birthmothers (Carr, 2000; DeSimone, 1996). Again, it is important to note that most of these women relinquished their children during a time of secretive, shame-tinged adoptions.

There is evidence in several studies that birthparents who marry each other have higher risks of ongoing adjustment problems. For example, Grotevant and McRoy (1998) found women still with the fathers of their children were at greater risk for prolonged grieving. Deykin and colleagues (1984) found that birthparents married to each other reported an especially high rate of marital difficulty.

Some specific patterns stemming from adoption loss have been reported for birthparents in raising subsequent children. These include feeling more detached than they would have liked, particularly with the child born directly after the one who was placed; overprotectiveness; setting impossibly high standards for themselves as parents; and smothering their children with an overabundance of affection and material goods (Howe, et al., 1992). Many birthmothers also reported extreme fears of losing additional children, separation anxiety, and difficulty allowing children to become independent.

There is no recent research on large samples of birthmothers that provides insights into the extent to which these issues are significant difficulties in contemporary adoptions. It is nevertheless fair to conclude that their adoption experiences probably still can introduce stresses into their marital and parental relationships that need to be addressed. At the least, they would have the normal stresses of deciding when and how to tell their spouses and subsequent children about the child they placed, and managing painful memories or feelings that might be triggered by ensuing life events.

The ultimate adjustment birthparents achieve in coping with the stresses from their adoption experiences is the outcome of "an interaction between the individual's perceptions of the event, their repertoire of coping behaviors, personality characteristics, and the social realities that surround the situation" (Brodzinsky, 1990, p. 304). The challenge for the adoption field is to work toward "social realities" that include laws and practices that more adequately address birthparent needs.

CONCLUSION AND RECOMMENDATIONS

The institution of infant adoption as it exists in the U.S. today has evolved rapidly, and sometimes haphazardly, as a result of sweeping cultural changes and of a precipitous decline in the number of women relinquishing their babies. Furthermore, the process has too often been shaped by the

market forces of supply and demand, rather than being treated as a separate child-welfare issue. While society rhetorically asserts that adoption is primarily about meeting the needs of children, in domestic infant adoptions – more than in any other type – it frequently focuses narrowly on making a child available for parents who pay high fees to adopt. One consequence of all these factors is that birthparents' needs often run a distant third in the shaping of relevant laws, policies and practices.

Providing adequate social supports, so that women and men can parent their own children when that is their choice, is a primary concern for ensuring the well-being of those who explore adoption. Poverty should not force parents to give up their children.

For infant adoption to be an informed and viable choice, birthparents' needs must be addressed by statute as well as professional practice. Impartial counseling and full disclosure of alternatives to adoption should be routine, whether the provider is an agency, a lawyer or another type of facilitator. The highest priority for safeguarding the long-term adjustment of birthparents is ongoing information about their children's well-being, so such access needs to be an entitlement except in extraordinary circumstances. For this to happen, the remnants of secrecy need to be torn away, and statutes supporting post-adoption contact agreements should be instituted across all states. Furthermore, laws should be passed to restore the right of adopted people to obtain their own birth records – both as a matter of fundamental rights and fairness, and to provide them and their birthparents the most expeditious means of exchanging medical and other information if they so choose.

Coercion of women and men to place their children for adoption – whether blatant or subtle – is another paramount issue that must be addressed. Seeking a solution to an unwanted pregnancy is subject to many influences, and a host of factors comprise a continuum of choice ranging from voluntary to involuntary. Each parent's ability to freely choose a solution is impacted by all of these factors, such as the supports offered to women who desire to parent their children, the support (or lack thereof) by one's culture and social circle for adoption or single parenting, the subtle seduction of slick advertisements, or the sense of obligation a woman feels to a family who was there for the child's birth and is counting on taking the baby home. Lack of coercion also means genuinely helping parents to explore whether to parent their children. Adoption professionals must develop a high sense of ethics and a commitment to helping all parents find the path that is right for them.

The integrity of adoption decisions also revolves around laws related to relinquishments and to the rights of birthfathers. State laws should not allow mothers to sign relinquishments until they at least are out of the hospital. Significant revocation periods, during which birthparents can change their minds without any legal grounds should be instituted following the signing of a relinquishment.

State laws need to require identification of the father, if at all possible, and should mandate personal notification to him of his rights in relation to his child's potential adoption. All too often, adoption professionals assume that men do not want to be involved – or find it easier to expedite the adoption if they are not – and therefore do not make diligent efforts to reach out to them. In addition, putative father registries should not be used as a means of denying rights to fathers, but as a way of empowering them to exercise their rights. That means, at a minimum, their existence needs to be well advertised and courts need to exercise sound judgment in incorporating them – or not incorporating them – into judgments relating to adoption and/or custody.

Many of the means of better serving birthparents center on the quality of the services they receive throughout the process – during pregnancy, around the time of relinquishment, and in the years thereafter. They need thorough education and preparation on the social, legal, and psychological issues involved. If they prefer an open adoption arrangement, they should be helped to understand that with benefits come responsibilities, that is, to their children. They also need to be informed that they may need ongoing assistance to surmount any obstacles that arise in achieving a workable arrangement. And birthparents need to be prepared for their own emotional adjustment processes,

and to be armed with both knowledge and resources that will enable them to heal from the losses they almost invariably will incur as a result of the adoption.

Adoptive parents need to be educated about the rights and needs of birthparents, both before and after an adoption. At both an intellectual and emotional level, they should be helped to understand that their adopted children are likely to always feel a connection to their original families, even if they don't acknowledge or articulate that feeling. At best, the goal is for them to appreciate the reality that honoring and nurturing this connection – when circumstances allow it – is a gift to their children, as well as the moral response to their children's birth families.

Adoption agencies are best structured to provide birthparents and adoptive parents with the breadth and depth of counseling and post-adoption support services they deserve. This work is pivotal to establishing a healthy foundation for the life of the adoption and for assuring the integrity of the adoption decision. Agencies need to develop broader post-adoption resources for birthparents, including some community-based services and supports to facilitate open adoption arrangements.

Social workers, psychologists and other mental-health professionals today are educated to believe that their practices should be based on a repertoire of evidence-based interventions stemming from sound research. The research underlying adoption practice is enormously inadequate, however; in fact, there is not a body of research on interventions to assist birthparents' decision-making or adjustment. Critical areas of need for future research include:

- What are the perspectives of birthparents choosing adoption today in relation to the practices they desire and the laws and policies that best meet their needs?
- What is the course of grief resolution of adoption loss for birthparents and what practices facilitate their grief resolution and long-term adjustment?
- What is the impact of an adoption decision on birthparents' intimate relationships and subsequent parenting relationships?
- What practices are needed to support birthparents and adoptive parents in working out open adoption arrangements?
- What are model adoption laws that best address the needs of birthparents?

Finally, those working in the field of adoption and members of the extended family of adoption need to educate the public about the realities of their lives today. Outdated stereotypes and beliefs about birthparents, adopted people, and adoptive parents – as well as about adoption practices – continue to affect people's lives in negative ways. They spur legislators to pass laws that result in punitive or regressive practices. They influence journalists and television producers to perpetuate unrealistic beliefs (such as the fear that there is considerable risk of a birthparent trying to reclaim an adopted child). And they perpetuate prejudices that lead people to think that women and men who choose adoption do not care deeply for their children.

Attention to the needs and rights of birthparents should be at the core of healthy adoption for everyone involved, especially the children. It must therefore become a top priority for future development of adoption-related laws, policies, practices and research.

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