



## **Findings from a Citizens League Discussion Process to Improve Access to Birth Records in Minnesota**

*January, 2015*

### **Background**

For decades, efforts have been taken up in many states, including Minnesota, to ease the restrictions concerning access to original birth records that are sealed and deemed confidential when an adoption occurs. These efforts often stir controversy in the complicated and emotional process of balancing the interests of adoptees, birth parents and adoptive parents. Adult adoptees became the singular group of US citizens denied access to their original birth records when many, but not all states changed their laws in the late 1940's and 1950. In the last four decades some states have revisited their laws governing the topic and now nine states are "access" states, while another six allow partial access or access with restrictions.

**Citizens League as neutral convener.** In the fall of 2014, the Citizens League convened a group of stakeholders to discuss possible solutions for the system of adoption records in Minnesota. The Citizens League was engaged at the request of and with funding by Children's Home Society and Lutheran Social Service of Minnesota. Understanding that the *process* of identifying such a solution is paramount, the Citizens League was asked to serve as a neutral convener, to give all stakeholders confidence that the process will be open, fair and transparent. The Citizens League has not done work on this issue in the past, and therefore had no prior position. The Citizens League's conditions for taking on this work were: 1) stakeholders representing a full range of views must be invited to participate; and 2) the funders would be given no special considerations at the discussion table.

**The process and its objectives.** The primary objective of the convening was to foster a productive discussion among key stakeholders, outlining areas of agreement as well as remaining areas of disagreement. That objective was achieved. Participants came to agreement on many issues, although not all. This statement reflects their agreements.

The secondary outcome was the development of legislation that key stakeholders could support. Participants recognized that because the access to birth records is a complex and deeply personal and emotional issue, it might not be possible to agree on legislation in such a

short period. In the end, not everyone could sign on to legislation that will be presented in the 2015 session. The singular issue was one of how to balance the interests of adoptees with those of birth parents who wish to remain anonymous.

More than twenty-five people participated in a series of eight meetings. They represented birth parents, adoptees, adoptive parents, adoption agencies, government agencies (limited to the role of providing technical assistance), right-to-life advocates, tribal interests, and academia. The list of participants is attached.

## **Overarching Principles**

These principals provide a framework within which the importance of original birth records should be understood, and from which any and all legislation related to birth records should be based.

- **Adoption hopes to provide the opportunity for children to be cared for and loved by a family other than their birth parents.** Adoption is an expression of love that often begins with anguishing loss—the sacrifice made by birthparents for the best of their child, and the joy of adoptive parents who yearn for a child.
- **Adoption is a decision made by adults for a child** that has lifelong implications for all involved, including the adoptee, birth parents, adoptive parents and extended family.
- **Everybody goes through a process of forming self-identity, a process that involves an understanding of self, belonging and connectedness; this process is more challenging for adoptees.** Adoptees lack access to many first hand sources of information about their heritage.
- **The adoption process should be based on procedures and standards that reflect the interests of all affected by an adoption – the birth parents, adoptees and adoptive parents.** State law and related policies and practices should be, clear, easy to understand, aligned with superseding law, nondiscriminatory and consistently applied.

## **Findings**

The discussion group recognized that adoption encompasses a complex set of experiences, interests, and emotions, sometimes difficult to understand if one hasn't lived these experiences. Given these complexities, it is not surprising that viewpoints differ, especially on exactly how to balance the interests of birth parents, adoptive parents and adoptees. Nonetheless, the group agreed that:

1. **Access to original birth records by adult adoptees should not be the exception, but the rule.** Adoptees deserve greater consideration when balancing interests. Past practices were rooted in good intentions. But much has been learned since then about the impact of identity on physical, mental and social health. The group called for establishing a “new norm” in how original birth records are handled in the adoption process.
2. **Birth parents who choose to keep records closed deserve compassion and their privacy protected.** Experience from other states and Minnesota’s own records suggest that the large majority of birth parents want to be known by their adopted children. Most adoptions today occur under the philosophy of an open adoption where birth parents, adoptive parents and the adopted person exchange identifying information. However, for many earlier adoptions, occurring primarily in the mid-1900’s, birth parents believed their identifying information would not be shared. Other birth parents, when given an option to release their identifying information, choose to keep their identifying information concealed. The group agreed that it could not define or understand all the scenarios in which birth parents make the choice to close records. While it is imperative that birth parents understand that open records are in the best interest of their child, the group believed those parents’ wishes should be respected.
3. **Minnesota law regarding access to birth records as currently structured is overly complex and confusing.** As a result, is inconsistently applied and imposes unnecessary costs on adoptees, adoption agencies, government agencies and courts.

## Conclusions

The group agreed that:

1. For all future adoptions, adoptees should have access to their original birth record at adulthood unless an affidavit of nondisclosure is filed by the birth parent. Contact preference forms will be offered to birth parents.
2. A major public awareness campaign would be highly beneficial, whether or not the law changes. *Of the 136,000 adoptions in Minnesota since 1935, no affidavit, (of either disclosure or nondisclosure) exists for nearly 121,000 adoptions.* This leaves tens of thousands of adoptees without ready access to the identifying information they yearn for. At the same time, many birth parents are not aware that they can file affidavits of disclosure or nondisclosure. Many wait silently in hope that one day, their child will identify them and contact them. Some wait in fear of discovery.
3. The process for accessing records should be streamlined and consistently applied.

## Discussion Participants

Misty Coonce	Evolve Adoption and Family Services
Valerie Cunningham	Catholic Charities Winona
Pat Glisky	Concerned United Birthparents
James Hamilton	Attorney
Michelle Johnson	Adopted and Fostered Adults of the African Diaspora
JaeRan Kim	Center for Advanced Studies in Child Welfare, University of Minnesota
Gina Knezevich	St. Louis County
Joe Kroll	North American Council on Adoptable Children
Penelope Needham	Minnesota Coalition for Adoption Reform
Alexis Oberdorfer	Lutheran Social Services and Children's Home Society of MN
Robert O'Connor	Private Practice and Professor
Suzie O'Hara	Catholic Charities Twin Cities
Mark Peterson	Former CEO, Lutheran Social Services
Jodi Raehsler	Olmsted County
Andrea Rau	MN Citizens Concerned for Life
Brynn Smith	Lutheran Social Services and Children's Home Society of MN
Sandy Sperrazza	Concerned United Birthparents
Betsy Tronson	Catholic Charities Twin Cities
Sandy White Hawk	First Nations Repatriation Institute

Grateful thanks to those from the Minnesota Department of Health and the Minnesota Department of Human Services for their technical assistance in the discussions:

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