

**NEW ZEALAND ADOPTION
HISTORY AND PRACTICE SOCIAL AND LEGAL**

ADOPTION RECORDS

VOL 7

K C Griffith MBE

20 Herewini Street, Titahi Bay Wellington, New Zealand
Email <keith-griffith@clear.net.nz> Ph 04-2366215

**NEW ZEALAND
ADOPTION**

**ADOPTION
RECORDS**

VOL 7

ADOPTION RECORDS

7 ADOPTION RECORDS AND ACCESS

Court adoption records
 Adoption records access
 Adoption Act 1955 section 23
 Interpretation of section 23
 Case law access to adoption records
 Application to inspect court adoption record
 Requests under Official Information Act 1982
 Requests under Privacy Act 1993
 Registrar-General's adoption records
 Access Registrar-General's adoption records
 Solicitors adoption files
 Social welfare department adoption records
 Adoption Information Bills Debates Acts
 1985 Adult Adoption Information Act & Rules
 Overview of Adult Adoption Information Act
 Adult Adoptee Population
 Adoptee access to original birth entry
 Birthparent access to adoptee information
 DSW assistance
 Medical access to information s11
 Counselling
 Vetos
 Research re Adult doption Information Act 1985
 England- Adoption Contatc Register
 Australia NSW access to information

7 ADOPTION RECORDS DETAIL

COURT ADOPTION RECORDS

1937 Report
 Most court records are intact
 1941 Early records transfer to Registrar-General
 Court Adoption Records
 — Location and Commencement Date

Contents of Court Records

1881-1895 Adoption of Children Act 1881
 1895-1912 Adoption of Children Act 1895
 1912-1956 Infants Act 1908 Part III
 Adoption Act 1955

Application for adoption order

1965-1959 /1959-1962 /1962-2003>
 — Affidavit by applicants
 — Birth parent(s) consent. Form No.2
 — Social Worker and Police report
 — Copy of child's original birth entry
 — Marriage certificate of applicants
 — Final adoption order
 — Notification of adoption order RG69D

Court adoption Records Graph

Adoptions Register Book

Missing detail

123,000 Adoption Records

Access to Court Records 1881-1955

Magistrates Court search rules
 1910-1928/1928-1948 /1948-1955
 Court practice 1955-2003>
 Access provision

Accessing records 1985-2003>

Adoption Records Access Table 1880-2003>

Statutes

Adoption Act 1955 s23
 —Adoption records not open to inspections
 Original 1955-1985
 Amended 1985-2003>

Origin and intention of Section 23

Research sources

1952 Interdepartmental Adoption Committee

Membership

Deliberations section 23

Original Child Welfare Division proposals
 Canadian Statutes link
 First draft report
 Justice Department response
 Final recommendation
 First time "On any other special grounds
 Contemporary Court practice
 Patricia M Webb's 1979 comments
 Adoptee access to records not considered
Parliament

Consideration Adoption Act 1955 Sec.23

Cabinet

First reading

Second reading

Submissions

Statutes Revision Committee

Statutes Revision report to House

Debate Third Reading

Summary comment section 23

Interpretation 'On any other special ground'

Meaning of words

— Any
 — Other
 — Special
 — Ground

Meaning of phrase

— The word 'ground'
 — The word 'special'
 — The word 'other'
 —The word 'any'
 — Limitations on 'any other grounds'
 — Importance level 'any other ground'
 Inspection forbidden marriage degrees
 Defining Court adoption records

Note Maori adoption records published 1902-1956

Case Law Access to adoption records

1965 Complaint to Ombudsman re RG decision
 1965 Ombudsman's Report to House case No.1599
 Comments re case:

Adoptees right to know they're adopted

Restricting access to adoptee information

Does adoption require a complete break

Severance of a child from natural parents

Cases- Inspection of adoption records

1976 Gilliland SM Auckland MC *Re Application by B*

Case Comment /Pandora Box/ parties to adoption

Special ground/consequences/ Jewish blood

1977 Case1 Sullivan SM Wellington *Mrs M*

Case Comment /Contact / Results

1977 Case 2 Auckland MC *Mrs MD*

1977 Case 3 Wellington MC

1978 Case 4 Sullivan SM Wellington MC

Special grounds / Oral decision

1978 Defining Court adoption records

Ak Dist Law Soc Legal Opinion - Robert Smellie.

1979 Case 5 Gilbert SM. Wellington MC

1979 Case 6 Paterson SM Christchurch MC

1979 Case 7 Wellington MC

1981 Case 8 Palmerston North MC

1981 Case 8 Wellington MC

1981 Case 9 Pethig DCJ Wellington FC

1982 Case 10 Palmer DCJ Christchurch FC

1982 Case 11 Pethig DCJ Wellington FC

1982 Case 12 Beatson DCJ Wellington FC

1983 Case 13 Bremner DCJ Wellington FC

1983 Inglis DCJ QC. WN Records re court evidence

1983 Case 14. Pethig DCJ Wellington FC

1983 Case 15. Pethig DCJ Wellington FC

1983 Case 16 Dunedin FC ?

1983 Case. 17 Inglis DCJ QC Wellington FC

1984 Inglis DCJ QC Wellington *In re M*
 1984 Inglis DCJ QC *In re W*
 1884 Hillyer J Auckland HC *D v Hall*
 Defining Court adoption records
 1984 Bisphan DCJ Christchurch *DGSW vG*
 More than curiosity
 1985 Case 18 Pethig DCJ Wellington FC
 1987 Case 19 Carruthers DCJ Wellington FC
 1992 von Dadelszen DCJ PNorth *In re M FC*
 1993 Inglis DCJ QC Hastings *App inspect record*
 1996 Ellis DCJ Napier FC *Adoption of S Access by*
 aunt of deceased BM / Privacy Act 1993
 Case Comment
 — Contacting- adult adoptees'
 — Adoption Act 1955 s 23 reconfirmed?
 — Privacy Act 1993
 Relatives and sibling access to information
 Relatives' access to information NSW
 Reappraisal of access to adoption records
 1999 Callaghan J Gore DC Re MT
 2001 Mather J Wairoa FC Re H
 — Adoption Act 1955 s2
 — Adult Adoption Information Act 1985.
 — Adult Adoption Act 1985 s11 [Medical Access]
 2001 Fraser J Palmerston North FC *RE VA*
 Negligence-Records not available for litigation
 — 1997 RHTKT CA *At/General v Prince*.
Access to adoption Information *Trapski*—
 Introduction and historical
 Source of adoption information
 The Court adoption file
 Files- Department of Child, Youth and Family Services
 Records of specialist adoption-link agencies
 Solicitors' records
 Hospital, medical, and social work records
 Ombudsmen and Official Information Act
 Privacy Commissioner
 Court records re divorce or family proceedings
 Adoptee's original birth certificate
ACCESS TO COURT RECORDS
 Adoption records not open to inspection
 Administration of estate or trust
 Inspection by Registrar or marriage celebrant
 Inspection by doctor on medical grounds
 Inspection by a social worker
 Meaning of "special ground"
 Personal circumstances of applicant
 Inspection sought by adult adoptee
 Inspection sought by relinquishing parent
 Inspection sought by other relative or official agency
 Report from a social worker
 Access to solicitors' records
OFFICIAL INFORMATION ACT REQUESTS
PRIVACY ACT REQUESTS
 Adoption related requests
 Ref to the Privacy Act in adoption proceedings
 1996 Ellis DCJ Napier FC *Adoption of S*
 2001 Fraser J Palmerston North FC *RE VA*
 Privacy Commissioner's Submission
Law Commission - Access to adoption info Ch16
 Background
 Birth Certificates - current system
 Purpose of a birth certificate
 Submissions
 Recommendations
 Adult Adoption Information Act 1985 vetoes
 Counselling
 Access to Court and Social W adoption records
 Options
 Recommendations
 Discrimination of adopted persons on grounds of
 status a breach of UN Conventions?
Application to inspect a Court adoption
record

Who may apply
 What Court
 Location
 What Court holds the record
 How to apply
 Affidavit
 Oath and witness
 Court filing
 Cost of filing
 Use a solicitor?
 Use of expert witnesses
 Setting date and time of hearing
 Appearing before Judge
 Application to Court sample Affidavit
Court Considerations access to records
 Applicant must establish a 'special ground'.
 Discretionary power
 Lack of guidelines
Special grounds that have been raised
 Medical grounds
 Psychological grounds
 Depression of birth mother
 Teenage self-identity issues
Practical Aspects Court Inspection Orders
 What normally happens
 Issuing inspection order
 Unconditional inspection
 Conditional inspection
 What's on the records
 Tracing birth mother
 (a) Phone book
 (b) Birth mothers married name
Court Application under s23 of Adoption
Act 1955
 Adoption Information Manual CYPs DSW—
 Statistics re use S23. 148 applications 1995-96
 Adoption files not available for inspection
 Adoptee closed records policy
 Crux issue of discretion
REGISTRAR-GENERAL'S ADOPTION
RECORDS
 Date from 1915
 Birth entry and birth certificate
 1915 Re-registration of adoptee birth entry
 Parliamentary Debate
 avoid stigma of illegitimacy
Statutes re Registration of adoptions
 1915 Births & Deaths Reg Amendment Act "s8 (1)
 1924 Births Deaths Reg Act s27
 1995 Births, Deaths, and Marriages Reg Act Part IV
 — s23 RG to be notified of all N Z adoptions
 — s24 Registration of New Zealand adoptions
 1943 Statutes Amendment Act s1-3
 Re-registration adoptees not born in N Z
 1961 Births and Deaths Reg Amendment Act s5
 Registration of adoptions made overseas
 1995 Births, Deaths, and Marriages Reg Act Part IV
 — s25 Registration of overseas adoptions
 — s26 R-General may supply adoption info to
 registration authorities overseas i
 1951 Births & Deaths Registration Act Part III s22
 Re-registration of Maori adoptions
 1995 Births, Deaths, and Marriages Reg Act Part IV
 — s27 Variation or discharge of adoption order
Contents Registrar-Generals adoption records
 Original birth entry
 Current adoptee birth entry
 District Registrars records
 Registration of Maori births 1913-1961 ref
 Court records 1881-1915
 Registrar-General's address
Access Registrar-General's adoption records
General provisions for searching
 1875 Births and Deaths Registration Act "s39

- s40 General Registry indexes
- 1908 Births and Deaths Registration Act “s40(1)
- s41(1) General Registry indexes
- 1924 Births and Deaths Registration Act “s44(1)
- s45(1) General Registry indexes-
- 1951 Births and Deaths Registration Act “s38
- s39 General registry indexes-
- 1995 Births, Deaths & Marriages Reg Act Part IX
- s73 Searches of Registrars' records

Public access to indexes

- 1875-1951 /1951-1994 / 1995-2005>
- No searching of adoptee original birth entry
- 1951 Births and Deaths Registration Act s21(6)
- 1995 Births, Deaths, and Marriages Reg Act
- s74 Registrar-General's indexes
- s75 Searches of named persons only
- s76 Restricted searches re adopted persons
- Copies adoptee original birth entry
- 1881-1915 /1915-1924 /1924-1950/1950-1969
- 1969-1985 /1985-2003>
- 1995 Births, Deaths, & Marriages Reg Act Part 8 C
- s63 Birth certificates adopted persons

Inspection of adoptees original birth entry

- 1881-1951 /1951-1969 /1969-2005>

Short form birth certificates

Case law access to original birth entry

UN Declaration of the Rights of the Child

Statutes revision committee 1981

Answers examined

Second simplistic answers

Australian contrast

Significant progress

Further detail

Adoptees inspecting current birth entry

Issue of words 'adopting parents,'

Memorial endorsement on adoptee birth entry

Withholding inspections

Courts and knowing adoptive status

How do I know I am adopted?

1990 Report Rec one birth certificates for adoptee

DSW Adoption Information Manual

Relevance to Adoption Information

Registration of change of name

Change of name by Deed Poll

Child of unmarried mother

How to apply

Registration of Adoptions

How to apply

Case Law

Access by daughter to deceased father's OBC

1994 Borrin DCJ Lower Hutt DC *App by NY*

ADOPTIVE PARENT ADOPTION RECORDS

SOLICITORS ADOPTION RECORDS

What to disclose from your adoption files

1978 Legal Opinion

Mr Smellie considered five questions

The right of the client to solicitors file

Solicitor's obligation

The second issue,

Answers to five questions

Minister's attitude

Case Law

Motorcycle access

— 1980 Patterson DCJ Lower Hutt DC

Birth mother seeks access to solicitors files

— 1984 Hillyer J Auckland HC *D v Hall*

SOCIAL WELFARE ADOPTION RECORDS

Card index basic adopted person information

1906-1955

Contents of the card file

Social welfare adoption files

Typical content

Adoption records Wellington District Office AISU

1900-1950 Index cards (National)

1950-1960 Index cards (local)

1960- Present adoption files (local)

Personal and family files (Local)

Archives lists (National)

Overseas resources

Please Note AISU policy

Non social welfare adoptions

Information from departmental files

DSW records privacy issues

Purpose of collection of personal information

Source of personal information

Collection of information from subject

Manner of collection of personal information

Storage and security of personal Information

Access to personal information

Correction of personal information

Accuracy of information check before use

Agency not to keep personal information longer than necessary

Limits on use of personal information

Limits on disclosure of personal information

Unique identifiers.

Working with Adult Adoption Information Act 1985

Working with the Adult Adoption Act 1985

Files- Depr of Child, Youth and Family Services

— *Trapski* K2.03 and K2.06

Report from a social worker K20.07

Agencies as information protectors

ADULT ADOPTION INFORMATION ACT 1985

Adoption Information Questions Petition Bills

Parliament 1876-1985

Question 1976 adopted children & natural parents

Petition 1977 Change in Law on Adoption

Secretary of Justice Report

Report back

1978 Consideration report to House

Decisions of Government

Question 1977 Adoption Act access to birth record

Question 1978 Adoptions access to records

Four Adoption Bills

Detailed table re Four Adoption Information Bills

1. 1978 Adoption Amendment Bill No.1 First Reading

2. 1979 Births Deaths and Reg Amendment Bill

3. 1980 Adult Adoption Information Bill

First Reading

Referral to Statute Revision

1981 Bill held over to next session

1982 Delay and frustration

1982 Statutes Revision Committee Report

Took two years to report back.

1982 Prime Ministers press conference

1982 Bill held over to next session

1983 2nd Reading

— Ayes 53 Noes 17 Majority for 36

1983 Attempt to stop Adult Adoption Bill

— Ayes 53 Noes 23 Majority for 30.

1984 National Government replaced by Labour.

— Adult Adoption Information Bill Lapsed

1984 Adult Adoption Information Bill No.4 First Reading

— Referred to Statutes Revision Committee

1984 McLean amendment referred to Statutes

— Revision Committee.

1984 Statutes Revision Committee Report S.O.P.4

1985 Statutes Revision Committee Report on Bill

— Debate resumed

— Ayes 52 Noes 16 Motion Agreed r 36

1985 Second Reading and resumed debate

— Bill be now read a second time.

— Ayes 55 Noes 19 Majority For 36.

1985 Committee Stages

McLean Amendment

— Ayes 20 Noes 59 negated

Committee divided on the question, clause 3 be

— agreed to. Ayes 53 Noes 27 Majority For 26.

1985 Third Reading

— Ayes 51 Noes 25 Majority For 26.

Bill read a third time.

Adult Adoption Information Act 1985

Issues in the Adoption Information Bill debate

Conscience vote and party lines?

Analysis of The final vote on the Bill

Public Submissions Classified

McLean Amendment

Supplementary Order Paper No.4

Effects of amendment

Transforms Bill to contact register

Changed definition

Extends veto indefinitely

Criminal Offense provision

Bell amendment.

Political opposition to the Bill

Privacy

Retrospective nature of legislation

Adoptees ghosts from the past

Bill attacks the family unit

Curiosity

Bill attacks adoption

Potential tyranny

Birth mother instability

Birth mother suffering

Adoptee don't have two sets of parents

Blackmail

Rape and incest adoptees

Legal theft

Adoption research and political debate

Promised Reviews of 1955 Adoption Act

1976 Await review 1955 Act

1977 Petition Await review 1955 Act

1977 Await review 1955 Act

1978 Await review

1978 Await review 1955 Act

1979 Webb Review shelved

1979 Await review 1955 Act

Role of Prime Minister Mr Muldoon

Birth Parents Anonymous

1993 Adult Adoption Information

Amendment Bill

Grahame Thorne MP—

Age/ Adopted persons rights

Birth parent's rights/ Relatives' rights

Adoptive parent's rights/

On death of adoptee or birth parent /Vetoes

—1st Reading

Future changes to the Adoption Information Act

Free conscience votes

Private Members' Bills

Policy making in New Zealand

Political pressures on conscience vote

Departmental responses to Adult Adoption

Information Bill

Justice Department

Department of Social Welfare

ADULT ADOPTION INFORMATION ACT 1

985 STATUTE NO.127

Short Title and commencement

Interpretation

1995 Amendment

1990 Amendment.

Birth parent may restrict access to information

Adult adopted person may apply for original birth cert

Certificates for persons adopted before com of Act

1995 Amendment

1995 Addition

Certificates for persons adopted after Act

Adopted person register desire no contact BPs parents

Access by birth parents to identifying information

Access by adult adopted person to identifying info

Departmental assistance in approaching parent or child

Access to information on medical grounds

1995 Amendment

Approved Persons and Organisations

Minister may approve persons and organisations

1991 Amendment

Regulations

1991 Amendment.

Act not to effect disclosure of non-identifying information

Amendment to Adoption Act 1955

— s23 Inspection of adoption records

Adult Adoption Information Amendment Act 1991

— Statute

— Short Title & Fees

Rules Adult Adoption Information Act 1985

SR1986/207 Adult Adoption Information Act Fees

SR1987/150 Adult Adoption Information Act Fees

SR1988/75 Adult Adoption Information Act Fees

SR1989/318 Adult Adoption Information Act fees

SR1991/196 Adult Adoption Information Act fees

Imposition of high adoption charges

Overview 1996 Perspective

DSW 1995 perspective

Legislative Background

Three Acts of regulate access to information

Guidelines for practice

Receiving requests for information

Identifying information

Non-identifying information Section 14

Personal information

Official Information

Processing requests for information

Release of first names

When a name may be given

Overview notes Iwanek

— Department faced major philosophical shift

— Why Access became issue at this point in History

— The main concerns of these groups were

— Support group campaign

— Synopsis of Support Groups' Activities

— Informal Political Processes

Adult Adoption population tables 1881-2004

Adoptee Population Calculation Table

Limitations — Age at adoption — Age at death

Explanation of Columns A to H.

Adoptee access to identifying information

1881-1955

Consent identity

Adoption order application

Private adoption

Adoption order

Original birth entry .

Gossip line

1955-1985

Official secrecy

Non stranger adoptions

1985-2005>

Conclusion

Adult adoptees with identifying Information

Adult Adoptee Knowledge of Origins 1996

Identifying Information

— What constitutes identifying information?

— That persons name and address

— Phrase "and includes any information that is likely to enable any other person to ascertain that person's name and address"

Practical aspects of identifying information

Charts

Adoption population Chart 4A

Adult Adoptee Population Chart 4B

New Adult Adoptees per year Chart 4C

Stranger- Non-Stranger Percent Chart 4D

Adult Adoptee Age Chart 4E

Adopted persons access to Original Birth Entry

Adult Adoption Information Act 1985 s4-5.

Adoptee access original birth certificates

Sec 4-5

DSW/CYPS Adoption Information Manual

Adult adopted person may apply to Reg-Gen
 Counselling for adult adopted people re OBC
 The counselling session
 Adopted person applicant age range peak 20-24
 Adopted persons applications
 Adoptee emotions normal and can cope
 Gender bias of applicants

Charts

Adopted person response to Birth Parent app.
 Adoptee Applications Chart 1.
 Adoptees Apps Male & Female Chart 2
 Chart 2A detail of Chart 2
 Percent <ale Female Applicants Chart 2B
 Adoptee Female & Male Cumulative Chart 3
 Adoptee Applicants Age Range Chart 4
 Adult Adopted Persons rights to original
 birth certificate Trapski— K.5.
 Counselling of adult adopted persons K.6
 Adult adoptees residing outside NZ K-7:
 Adoptions after 28 February 1986 K.8
 Access records for adoptees overseas orders K.9
 Veto birth parent contact by adopted person K.10
 Access by adoptee identifying information K.12
 Access to non-identifying information K.13
 Chart

Birthparent Access Identifying Information s8

DSW Adoption Information Manual
 Birthparent may apply to Director-General
 Details can be verified
 Veto/No Veto
 Searching process may ask adoptive parents
 Letter to applicant when adopted person allocated
 Referral to District
 Contact with the Adopted Person
 Positive replies
 Interim replies
 Negative replies
 SW677 Adoption Information Inquiry Form
 Birthfathers' rights
 Birthfathers named on the original birth entry
 Birthfathers can add name to original birth entry
 If applicant is named in departmental records
 Where insufficient proof of birthfather's identity
 Counselling available to birthparent
 When adopted person cannot be traced
 Reapplying under Section 8
 When an adopted person has died
 Approaches adult adoptee intellectually impaired
 Social Worker making initial contact
 Appointment of a Welfare Guardian
 Wellington Unit to be informed
 Applications per S8 by agents acting on behalf of
 birthparents
 Many birth mothers unable to take initiative
 Concern- Fear- Feelings- Many worried
 Birthfather applications legal obstacles
 Different birthparents' applications unnecessary
 Birthfathers increasing response
 Reasons birth parents don't initiate applications
 Locale of adoptees sought

Protection measures under the Act

— Adoptee must be an adult
 — Counselling of adoptee
 — Endorsement placed by Adoptee
 — Consent of adult adoptee required s8
 — Endorsement by Birthparents s3
 Thousands of BP letters held by SWD
 Access Birth Parent to identifying information

Charts

Birth Parent Applications under s8
 Total Cumulative Applications Chart 7A
 Percentage Adoptee/BP applications
 Power of BPParent to restrict information Trapski

Charts

DSW assistance to locate birth parents
 DSW contact mediation service
 DSW Assistance Manual re locating Birth parents
 Application requires original birth certificate
 What information is available
 Little or no information on BPs may be held
 Adopted person's access to info on birthfather
 DSW contact and mediation assistance s10
 Request for social workers to act as intermediary
 Sec10 applies only in certain situations
 The role of the intermediary
 Where request falls outside provisions of ct
 Requests for approaches where a veto in force
 Adult adoption Information social workers
 Adoption support groups
 Usage of Section 9
 Usage of Section 10
 DSW assistance in approaching BP or adopted person
 Access to information by relatives Trapski K14,15.

ACCESS TO INFORMATION MEDICAL GROUNDS S11**Chart** access to medical information Sec 11

Definition of terms
 Application and verification
 Social worker searches records
 Identifying information protected
 Placing new medical information on file
 Access to Information on Medical Grounds
 Adult Adoption Information Act 1985 Section 11
 Access to information medical grounds Trapski- K16
 DSW Adoption Information Manual
 Doctor to apply in writing to Director-General
 Age limit and veto not applicable
 Any patient eligible when affected by adoption
 Registered medical practitioner only may apply
 Inspection of birth records of Reg-General or Court
 Approach to be carefully considered
 No identifying information to be disclosed
 Deficiencies of section 11
 Usage of provision
 Case 1993 Inglis JD QC Hastings *FC Application to inspect adoption records*

COUNSELLING

Origin
 Counselling informative not therapeutic
 Statute
 Approved counsellors and organisations s12.
 Counselling adoptees adopted before 1/3/1986
 Adopted persons adopted on or after 1/3/1986
 Counselling birth parents placing a veto
 Counselling adopted persons placing a veto
 DSW Adoption Information Manual
 Ongoing information and support
Chart re Adult Adoption Info Act Counselling
 Approved counsellors an organisations
 Optional counselling for birth parents re veto
 Optional Counselling for adoptees re veto
 Counselling available for adopted persons adopted
 before 1/3/1986 or after.
 Purpose of counselling
 Where does counselling fit in
 Telephone counselling
 Face to face
 Choosing independent or DSW counselling
 Counselling guards myth of mixed up adoptees
 Society, professionals, adoptees believe myth
 Power and stigma

Chart

Counselling- adult adopted person response
Independent counsellors Section 12
 DSW Adoptions Information Manual
 The Independent Counsellor's Responsibilities
 Independent Counsellors voluntary service
 Appointment not preclude adoption support activity
 The ideal appointee

Independent Counsellors' fees
 Depart's relationship re Independent Counsellors
 Appointment process Independent Counsellors
 List departmental & Independent Counsellors
 Independent counsellor numbers and use
 Adoption Counselling Trapski— K17
 Birth parents requesting restricting information
 Adult adopted persons apply original birth cert
 Adopted persons "no contact" endorsement
 Counsellor Selection and duty to client
 Criteria for selection of counsellors
 Statutory duties of counsellor to client
 Duty of confidentiality in common law or equity

VETOES

Definition
 Origin
 Non veto countries
 Veto no guarantee you can't be found
 Independent counsellors statistics

Adult Adoption Information Act 1985**Veto by birth parent s3**

— Application
 — Adoptions before 1/3/1986
 — Adoptions after 28/2/1986
 — Optional counselling
 — Duration of veto 10 years
 — Lifting veto
 — Renewing veto
 — Birth parents death- veto expires

Vetoes by adult adoptee s7

— Application
 — No application time limit
 — Adoptees have a second veto
 — Optional Counselling
 — Duration of veto
 — No provision to lift veto on death
 — Renewing a veto

Charts

Adoptee placed vetoes
 Veto Identifying Information s3 & 7

DSW Adoptions Information Manual

Endorsement original birth entry- veto
 Only birthparents and adopted people can veto
 Veto procedure same for BPs and adoptees
 Registrar-General must advise counselling avail
 The counselling interview
 The veto and the adopted person
 The veto and the birthparent
 Absolute secrecy cannot be guaranteed
 Letters of explanation for vetoes
 Vetoes removed before expiry date
 Requests for information from those who place vetoes
 Adoptees who do not want vetoed OBC sent to them

Practice

Telephone vetoes
 Why birth parents place vetoes
 Why adopted persons place a veto
 Why people don't place vetoes
 Should vetoes be allowed ?
 How many people encounter vetoes
 — Birth parent placed vetoes
 — Adoptee placed vetoes

Effect of encountering vetoes-

Adopted persons
 Birthparents

Breaking vetoes

Belief anonymity has been guaranteed by law
 Is a part of our adoption mythology
 Has no statutory foundation.
 Very high success rate
 May involve birth relatives
 Response to a broken vetoes

Veto endorsement detail

What happens when you encounter a veto

Expiry of vetoes what will happen in 1996?

Adoption Act 1955 s23 and vetoes

Evaluation- Vetoes are ineffectual

Type of adoptee placing veto

Statistics**Case law**

Unauthorised disclosure when veto in place
 — 1993 Heron J Wellington HC *G v Attorney-General*
 Australian New South Wales veto system
 Chance of encountering vetoes as at December 1996
 Vetoes placed by birthparent on adopted person
 Vetoes placed by adult adoptee on birthmother
 Veto counselling statistics

Registrar-General's policy advice renewal of vetoes

Instructions to Staff re Expiry of Vetoes;

Comment

Notification of date of veto expiry

Charts

Veto Chart

Veto total Chart 8

Chart 8A Detail of Chart 8

Vetoes by adopted persons Chart 9

Chart 9A detail of Chart 9

Adoptee Vetoes placed by BPs Chart 10

Vetoes by Birth Parents Chart 11

Chart 11A detail of Chart 11

Vetoes by Birth Fathers Chart 12

Vetoes and Expiry Cumulative Chart 13

BM/Adoptee Vetoes percentage Chart 14

Active BP placed vetoes Chart 15

Active Adoptee Placed vetoes Chart 16

Percentage Vetoed Adult Adoptees Chart 17

Vetoes by adoptees 1986-1996 Table 17

Vetoes by Birth Parents 1986/1996 Table 18.

Original and renewal vetoes table. 17A

Active vetoes summary table

Placement of Vetoes detailed table per month

Adult Adoption Information Act Research

Jill Kennard—

Abstract

Sample 145 adoptees

Results.

Conclusions

Further Research

Legal Implications

Implication for practitioners

Summary

Research Adult Adoption Information Act 1985

Age of Adoptee Applicants Sample

Education

Occupations

Children in Adoptive Family

Age Learnt of Adoption

Life Events that increased Interest in Origins

Who they most wanted to Meet

Time from when First Thought of Learning More

Intention at Time of Application

Age Placed with Adoptive Parents

Makeup of Adoptive Families

How they learnt of their Adoption

Who made the First Contact

Sample sex

Lived with BM prior to adoption

Makeup of Adoptive Families

Results of searching

Use of mediators

Response to self v mediator

First contact with birth relative

Positive responses to medium used

Response received to first birth contact

Response to continuing contact

Relationships with adoptive parents

Wanting to know more re birth parents

Relationship with adoptive parents

Before applying for birth certificate
Relationship with A' parents re placement age
Relationship with A' parents during search
Relationship with A' parents after reunion
Relationship with marriage partner after reunion
Adoptee Applicants view of adoption
Support Groups
Vetoos

Adoption Myths

Iwanek Conclusions

- Clarity of the statutory objectives
- The model suggests principle difficulty facing statutory implementors is obtaining compliance from target groups
- Compliance with the statute from birthmothers is also not what was expected
- The counselling task
- Birth fathers
- Support groups have a major role
- Extended family applicants
- Under age applicants
- Separate procedures for BPs and adoptees?
- Cost effectiveness

Selective use of research

*Weiss**

Findings about searching adoptees- Kennard

Age response of applicants

Jeff Field Research—

- Adjustment of birthmother and reunion
- Sampling
- Pregnancy experiences
- Reunion experiences
- Searching and the benefits of information
- Adjustment after initial reunion
- Conclusions

1994 New South Wales Adoption Act Review

Capacity for adoption to change

Criticism of adoption

The validity of adoption

ADOPTION RECORDS

Adoption involves major changes to the legal status of all parties, its important that permanent records are kept. New Zealand adoption records date from 1881, they are kept by the Courts, Registrar-General, Social Welfare, and solicitors acting for the birth and adoptive parents. For adoptions prior to 1955 the adoptive parents were issued with a copy of the adoption order. These records and their contents are now considered.

Court Adoption Records

All adoption applications must be heard before a Judge or Magistrate. The adoption records were held at the court where the adoption took place. No central registration of adoptions occurred until 1915.

1937 Report

The Department of Justice was concerned about the possible loss of early Court adoption records. On the 2nd of March 1937, they issued circular No.337 to all Courts requesting reports on their adoption records. The returns are tabulated below, listing the courts and commencement date of their adoption records.

Most court records are intact

There were only a few exceptions. Dunedin most files 1882-1908 were lost in a fire, but orders are intact. Marton 1904-1911 missing. New Plymouth "Until recently filing accommodation was extremely limited. Many old and important files were thrown into an indiscriminate mass in a deep low cavern under the building. This cavern is intersected by a water culvert which during very heavy rainfall overflows. On search being made it was ascertained that a great number of records were irretrievably ruined. Some fell to pieces when handled, in others the only decipherable parts were the adhesive stamps. Many were a soft soggy pulp," - missing years are listed. A few enterprising Courts used the circular to ask for extra staff, or new buildings to properly maintain and house the files.

1941 Early records transfer to Registrar-General

In 1940 a new Rule was Gazetted granting power to the Minister of Justice to order the transfer of any specified adoption records from Courts to the safe keeping of the Registrar-General. SR1940/270 *Gazette* 24/10/1940. Apart from the advantage of a central repository for adoption records, New Zealand was at war, and there was concern for preservation of records. On 21st March 1941 the Minister of Justice, acting per Rule 1940/270 ordered that

Court Adoption Records — Location and Commencement Date

1912	Akaroa +	1908	Inglewood*+	1922	Otautau +	1886	Waimate+
1922	Alexandra	1886	Invercargill	1917	Otorohanga*+	1886	Waipawa*+
1908	Ashburton	1922	Kaikohe	1915	Owaka*+	1913	Waipukurau +
1882	Auckland	1920	Kaikoura	1919	Paeroa +	1904	Wairoa
1913	Balclutha	1886	Kaipoi*+	1909	Pahiatua +	1905	Waitara*+
1932	Blacks*+	1920	Kaitaia	1882	Palmerston Nth	1924	Waiuku*+
1886	Blenheim	1890	Kawakawa +	1898	Palmerston Sth +	1884	Wanganui
1925	Bulls +	1921	Kawhia*+	1910	Papkura	1906	Wangarei
1916	Cambridge +	1899	Lawrence*+	1911	Patea +	1894	Warkworth+
1907	Carterton*+	1899	Leeston*+	1913	Petone*+	1927	Waverley*+
Nil	Chatham Is.	1901	Levin	1909	Picton*+	1884	Wellington
1910	Cheviot*+	1919	Lower Hutt	1894	Pukekohe	1891	Westport
1882	Christchurch	1916	Lumsden	1920	Putaruru	1910	Whangaroa*+
1905	Collingwood*+	1921	Lyttelton*+	1902	Queenstown	1921	Whakatane
1919	Cromwell*+	1912	Mangaturoto +	1918	Raetihi*+	1897	Winton*+
1922	Culverden*+	1917	Martinborough*+	1910	Raglan*+	1889	Woodville +
1897	Dannevirke	1886	Marton	1897	Rangiora	1907	Wyndham*+
1904	Darfield*+	1882	Masterton	1914	Rawene +		
1897	Dargaville	1927	Matamata +	1908	Reefton*+		
1882	Dunedin	1914	Methven*+	1898	Riverton*+		
1914	Eketahuna*+	1925	Middlemarch*+	1905	Rotorua		
1909	Eltham*+	1914	Milton +	1919	Russell*+		
1923	Fairlie +	1919	Morrinsville	1898	Stratford +		
1890	Featherston+	1905	Mosgiel*+	1908	Taihape		
1890	Fielding	1906	Motueka +	1926	Takaka*+		
1916	Foxton*+	1911	Murchison*	1911	Tapanui*+		
1890	Gisborne	1886	Napier	1905	Taumarunui		
1898	Gore	1898	Naseby*+	1903	Tauranga		
1888	Greymouth	1884	Nelson	1898	Te Aroha +		
1894	Greytown*+	1881	New Plymouth	1926	Te Awamutu +		
1909	Hamilton	1925	Ngaruawahia*+	1915	Te Kuiti		
1896	Hastings	1885	Oamaru +	1887	Temuka +		
1912	Hawera	1910	Ohakune +	1918	Te Puke*+		
1915	Helensville +	1910	Onehunga*+	1894	Thames		
1982	Hokitika +	1916	Opotiki	1888	Timaru		
1935	Houhora*+	1895	Opunake*+	1934	Tolaga Bay*+		
1923	Hunterville*+	1908	Otahuhu	1920	Upper Hutt		
1903	Huntly	1902	Otaki+	1914	Waihi		

Date is the commencement date of the adoption records at that Court.

*** Courts closed as at 1981 + Courts closed as at 1995**

On closure the adoption records are normally transferred to nearest existing Court.

New Courts Henderson. North Shore. Porirua. Ranfurly. Ruatoria. Taupo. Tokoroa. Whataroa.

Source: Returns from Department of Justice 1937 Survey, Circular No.337. For full detail GC15 p.4833-5039

All Adoption Court Records prior to 1916 were transferred to the Registrar-General's Office in 1941

all adoption records held by Courts dated prior to 1st of January 1916 be transferred to the Registrar-General for safe-keeping. *Gazette* 1941 No.28 p820. This also simplified the process of legal searching by having one central depository for early adoption records. These records are now kept at the Registrar-Generals Office, High Street, Lower Hutt. Since 1916 the Registrar-General has received information on all new adoption orders from the Courts through the Birth Registration Act provisions.

Contents of Court Records

The information contained in Court adoption records is largely determined by the Statutes, rules, and forms in force at the date of the adoption. The Rules are normally not issued until some time after the passing of the Act. The Rules, date period, and information content of the adoption records are —

1881-1895 Adoption of Children Act 1881

Application for adoption order. No Form. Application in writing. Adoptive parents: names, sex of applicant, spouse's name. Child: full birth name. Birth parents names If child deserted, proof with Affidavit. Rule.2. Spouse consent. A married applicant for an adoption order must file a consent in writing from spouse. Rule.6. Birth parent records. No Form. Consent in writing of birth parent(s). Verified by affidavit. Rule 5. Evidence. The Judge may take evidence upon oath, such evidence shall be reduced to writing, and filed by the Clerk of the Court. Rule 7.

Copy of adoption order. Form No.1 Application date. Date of order. Judge, Court. Adoptive parents: name, address. If married name of spouse. Child: name, age. Names of parents or legal guardian of child or if child is deserted proof. Name of persons who gave evidence. Original order given to adoptive parents, copy to Court.

Adoption register book. "The Clerk of the Court shall keep a register-book, and shall record therein a copy of every adoption order made under the Act. Such registered copy shall be verified under the hand of the Judge" Rule 11 Regulations 3/1/1882 *Gazette* 5/1/1882 p8-9

1895-1912 Adoption of Children Act 1895

Application for adoption order: Form No.1 Judge or Magistrate, Court, date. Adoptive parents: full names, occupation, address. Child: full birth name, age, sex, illegitimate to be endorsed as such. Birth parents: Names, occupation and addresses. Consent to order of adoption: Form No.5. Birth parents: full name, occupation, address. Child: full birth name. Adoptive parents: full names. Consent date. Order of adoption. Form No.6. Date, name and place of Court. Adoptive parents: names, address, occupation. Child: Full birth name, sex and age. Name of presiding Judge or Magistrate. Date of issue. Adoption register book. "The Clerk of the Court shall keep a register book, properly indexed, and shall record therein a true copy of every order made under this Act. Such copy of the order shall be verified under the hand of a Judge." Rule 12 Rules of Procedure 26/11/1895 *Gazette* 28/11/1895 p1839

1912-1956 Infants Act 1908 Part III

Application for adoption order. Form No.1 Magistrate, Court, date. Adoptive parents: full names, address, and occupation. Child: full birth names, date, sex, legitimate or illegitimate. Birth parents: full name, address, occupation of both birth parents. Consent to adoption order. Form No.5. Birth parents: full name, address and occupation. Date of consent. Child: full birth name, date, sex, legitimate or illegitimate. Adoptive parents: full names, address. Order of adoption. s16 or 17: Form No.9 Application for Order, filing date, Court. Adoptive parents: full names. Child: full birth name, date, sex, legitimate or illegitimate. Magistrate, court and date of issuing adoption order. "The Clerk of the Court shall keep with the papers in the proceedings a duplicate of every order made under Part III of this said Act and these rules." Rule 12

Copy original birth entry. "Every application shall be accompanied by a certified copy of the entry of the registration of the birth of the child referred to therein." Additional Rule 20/9/1916. *Gazette* 28/9/1916. Adoptions register book. "The Clerk of the Court shall keep a register ..wherein particulars of all documents filed in each application for an adoption order shall be entered in numerical order." R2 Rules 13/2/1912 *Gazette* 22/2/1912 p829

Adoption Act 1955

Application for adoption order

1965-1959

Form No.1 SR1956/169. Applicants: full names, address, occupation. Child: full birth name, sex, place and date of birth, intended new name. Court, date, time and place of hearing, Magistrate or Judge.

1959-1962

used Form No.1 SR1959/109 only difference is birth name of child may be omitted if applicants so wish.

1962-2005>

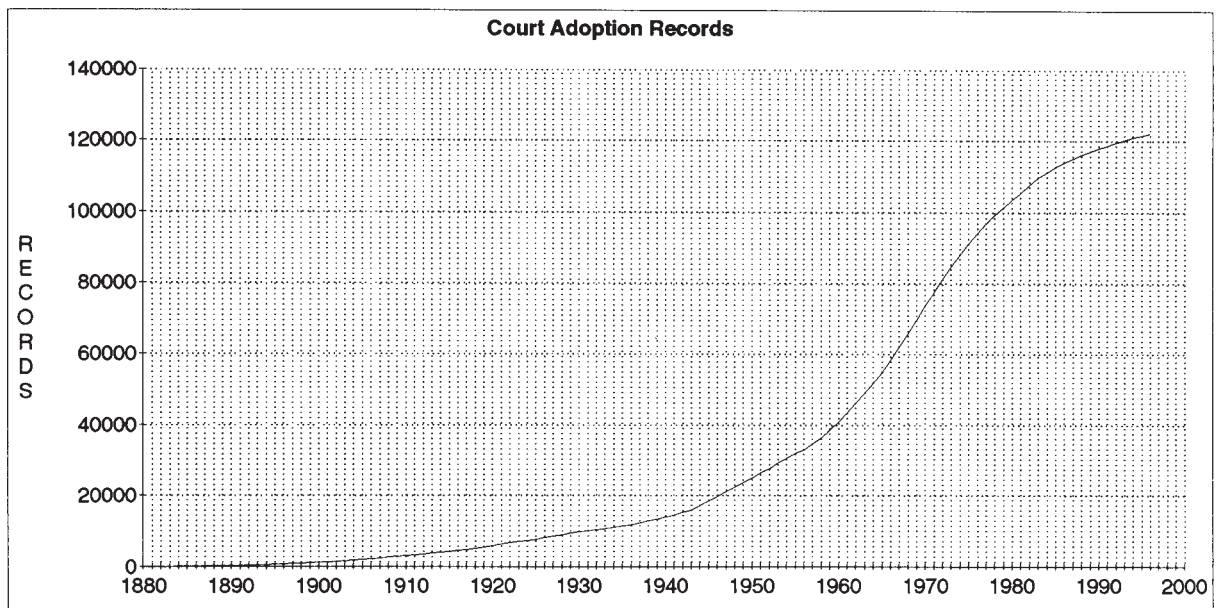
SR1962/91 *Gazette* 21/6/1962 Extra information required. Applicants age, birthplace, maiden surname of female applicant. Option- "we (do not) desire the words 'adoptive parents' appear on the face of any certified copy of the entry of birth of the child after the birth has been re-registered."

— Affidavit by applicants

Must include applicants ages, state of health, financial circumstances. Sex, age and state of health of their children, likelihood of birth of any future children. If related to applicants- state period child has been with applicants. Is there any monetary considerations? Will any religious conditions on consent paper be fulfilled? Have all consents been obtained? Has either applicant ever been refused an application to adopt? SR1956/169 R8. This form of affidavit was used 1956-1959. New form used 1959-2005> Only differences are- Applicants now required to state reasons for wanting to adopt the child. The question on the applicants fertility has been omitted. SR1959/108 R8.

— Birth parent(s) consent. Form No.2

General Form. Where a child is ex-nuptial, consent of birth mother only is normally required. Name of Court,



name of adoptive applicants, name of child. Full names, addresses, occupations of birth parents. Sex, birthplace and date of birth of child. Witness. No provision for religious conditions on General Form No.2 **Form No.3** is an alternative consent from that does not require names of adopting parents, and provides for religious conditions by birth mother. SR1956/169 Gazette 18/10/1956 SR1959/109 Gazette 9/7/1959.

— **Social Worker and Police report**

A brief report by a social worker of the Department of Social Welfare containing information on background and suitability of the adoptive parents. Also a brief background of the birth parents and child. Includes character references re adoptive parents. The social worker obtains a report from the police and files it with the Court. The question asked of the police- "Is anything known to them about the character of the applicants?" SR1956/169 SR1959/109 R7

— **Copy of child's original birth entry**

Contains child's full birth name, sex, place and date of birth. Birth mothers full name, age, place of birth. Informants name, occupation and address. Information on the birth father is not normally included in the case of an ex-nuptial child- his name can only be included with written consent of both birth parents. SR1956/169 SR1959/109 R8(2)(a)

— **Marriage certificate of applicants**

Where married, date and place, name of celebrant. Applicants: Full names, ages, birthplaces, occupations, marital status, address at time of marriage. Parents full names, occupations, maiden surname of mothers. SR1956/169 SR1959/109 R8(2)(b)

— **Final adoption order**

Judge, Court, date. Applicants: names, address, occupation. Child's: full birth name, sex, place and date of birth, child's new adoptive names.

— **Notification of adoption order RG69D**

Green copy. Sent by the Court Registrar to Registrar-General to effect a new registration of the adoptee's birth

entry in new names. After re-registration, the Form is returned to the Court as proof that the new registration has been completed. Contains: Child's full birth names, place and date of birth, sex, new adoptive names. Birth parents: names. Adoptive parents: full names, address, occupation, birthplaces, ages at time of adoption order. Adoptive mother's maiden surname. Final order date, Court, Magistrate/Judge. Original birth entry number.

— **Adoptions Register Book**

"R4. Records- (1) The Registrar of every Magistrate's Court shall keep an adoptions register in which shall be entered a record of all applications made in that Court under the Adoption Act 1955 and a minute of all decisions given and all orders made or issued in consequence of any such application. (2) A minute of any decision given or of the making or issuing of any such order shall be made on the relative file and shall be signed by the Magistrate or Registrar by whom the decision was given or the order was made or issued." SR 1956/169 Gazette 18/6/1956 SR1959/109 R4 Gazette 9/7/1959

— **Missing detail**

Where a child is ex-nuptial, normally the birth fathers name is not on the adoption records. To enter his name on the birth registration requires written consent of both birth parents. A signed statement by the birth mother alone on paternity is not considered proof of the birth father's paternity. The birth mother's address is often just a town or city, such entries are very common. Births and Deaths Registration Act 1951 Reprint 1979 amended s18-19

— **123,000 Adoption Records**

The Chart above shows the cumulative number of adoption court record files since legal adoption commenced in 1881. By 2005 there were over 125,000 court adoption record files. All court adoption records, prior to 1915 were transferred by the Registrar-General's office in 1941.

Access to Court Records

New Zealand has never had *sealed* Court adoption records but it does have restricted access. From 1881-1955, access by parties directly concerned with an adoption was available with certain restrictions. Most restrictions on access were to avoid information coming into the hands of persons not involved in the adoption. A major concern was to prevent general knowledge of an adoptees illegitimacy and associated stigma. From 1955 to 1985 increased restrictions applied, and it became very difficult to access.

adoption records. Although the blocking of adoptee access to their origins was not a considered purpose of the legislation, it became used to that effect. The implementation of the complete break theory became a major force that took every opportunity to restrict any access to adoptee origins information.

1881-1955

There were few restrictions on access to court adoption records to parties directly involved. Access to all court documents were provided subject to —

Magistrates Court search rules

1910-1928 Rules Magistrates Courts 1910 R13. “The Clerk shall keep a book in the Form No.5 to be called the ‘Search Book.’ Every application for a search shall be entered therein, and signed by the applicant.” *Gazette* 1910 Vol.1 p1011

1928-1948

Rules Magistrates Court 1928 R13. “The Clerk shall keep a book in the Form No.5., to be called the ‘Search Book.’ Every application for a search shall be entered therein, and signed by the applicant, who may upon payment of the prescribed fee make the necessary search.” *Gazette* 1928 Vol.3 p3537

1948-1955

Magistrates Court Rules 1948 R25(2) “Every application for a search entered in the search-book shall be signed by the applicant; and if leave to search is granted the prescribed fee shall be affixed in stamps...(3) Nothing in this rule shall be construed to prevent any party to any proceedings from inspecting any entry in the Court books, or any document relating to those proceedings.” SR1948.197

Court practice

From 1881 to 1955 any party to any adoption could search the Court adoption records. Also a copy of the adoption order was given to the adoptive parents. Sometimes the solicitor acting for the adopting parents retained the copy on their behalf, but they could obtain a copy of the order, of right, at any time up to 1955. Note- Department of Justice Memorandum 13th November 1933, every duplicate order issued was charged a fee of 2/-. A Department of Justice Memorandum to all Magistrates 26th March 1935- “Where a duplicate (adoption) order, as well as the original order is desired by the adopting parents, an extra fee of 2/- should be collected. Letters from the courts to the Justice Department mention in December 1933, searching of adoption records by both natural and adopting parents allowed. “I have, of course, allowed actual parties to an

adoption to search the file both before and after the making of the order. Nelson MC 13/2/1935.

Searching for adultery evidence

In cases where a solicitor, other than the one acting for the original parties, sought to search an adoption file for evidence of adultery, the Justice Department urged Court Registrars to use their discretion, reminding them that the welfare of the child should be paramount. However if a subpoena is issued the adoption records *must* be produced irrespective.

1955-2003>

Court Adoption records now available only for certain specified purposes as provided in the Adoption Act 1955 s23.

Access provision

(a) Adoption *order* is open for inspection in connection with administration of an estate or trust of which that person is executor, administrator, or trustee. (b) Adoption *records* are open for inspection by a Registrar or Marriage Celebrant for purpose of checking forbidden marriage relationships. (c) A *Court order* may be granted to inspect adoption records (i) As authorised under Adult Adoption Information Act 1985. (ii) Purposes of a prosecution for making a false statement. (iii) In event of question of validity of an adoption order (iv) On any other special ground

Accessing records

Application is made to a Judge for an order to inspect an adoption record, “On any other special ground,” The Judges decision will depend on (i) Establishment of the bonafides of the applicant. (ii) The significance and validity of the ‘special ground’. (iii) The possible effects on all parties concerned. (iv) The views of the Judge on adoption, the interpretation and intention of the Adoption Act 1955 s23.

1985-2003>

The Adult Adoption Information Act 1985 provides access to birth information by adult adoptees and their birth parents. The Act does not provide access to the Court records. It provides access to the adoptee’s original birth entry held by the Registrar-General, and the issue of certified copies. However, the Act may influence the interpretation and decisions of Adoption Act 1955 s23 as amended by the 1985 Adult Adoption Information Act.

Statutes

Adoption Act 1955 s23 Original 1955-1985

“s23 Adoption records not open to inspection

(1) Adoption records shall not be available for production or open to inspection on the order of the Court or of the Supreme Court: Provided that the adoption order itself shall be open to inspection by an executor or administrator or trustee who requires to inspect it for some purpose in connection with the administration of an estate or trust: Provided also that the adoption records shall be open to inspection by any Registrar of Marriages or *officiating Minister** under [the Marriage Act 1955] for the purpose of investigating forbidden degrees of relationships under the Act.

ADOPTION RECORDS ACCESS 1880 - 2005

Adoptee Birth Records percent Open

Year 0 20 40 60 80 100%

1880
1890
1900
1910
1920
1930
1940
1950
1960
1970
1980
1990
2005

Prior to 1881 informal European and customary Maori adoptions no records kept
1901-1962 all Maori Land Court adoptions were in open court, with open records

1881 Adoption of Children Act. Original birth entry open for inspection or copies, it was the adoptees only birth certificate, gave their birth and birth parents names

1895 Adoption of Children Act. Original birth entry open for inspection or copies
Minnie Deans hanged for adoption baby farm murders

1901 Customary Maori adoption *registered* with Maori Land Court. Open records

1908 Education Department Special Division commenced adoption records

1908 Infant Act Part III. Original birth entry open for inspection or copies

1910 Maori adoption orders now *made* by Maori Land Court. Open court and records

1915 Adoptees births re-registered in *new* adoptive names. Original birth entry open to inspection or copies

1924 Copies of original birth entry, but applicant must now state a purpose

Environment overcomes heredity. This theory became an ideology and became the core belief and driving force of social work practice in 1950s-70s. If a child is completely transplanted into a new family environment, then environment not genetics will determine the result. Thus adoptees, in their own interests, should be cut off from their origins completely. Root cutting and suppression of truth of origins from adoptees, at every stage and stage, became a social work and legal *obsession*. The theory was regarded as naively deficient by late 1960s but the practice was continued by many solicitors, judges, social workers and adoptive parents often with great fervour until the 1980s

1941 All Court adoption records prior to 1916 were transferred to the Registrar-Gen

1950 Registrar *may* refuse to issue copies of original birth entry

1951 Registrar *may* refuse to allow inspection of original birth entry

1955 Adoption Act implemented complete break theory. Environment overcomes genetics. Adoptees must be cut off from their origins. Secrecy imposed. No contact between birth and adoptive family. Birth mothers to *forget* and start a new life. Adoptees become *'as if'* born to adoptive parents. Good adoptees won't ask about origins because the adoptive parents are their *only real* parents.

1962 Maori Land Court adoptions stopped. All Maori adoptions are now in Pakeha Court with closed records

1969 Inspection and copies of adoptees' original birth entry, restrictions now similar to Courts

1975-85 10 year adoption law reform struggle. Advent of Support Groups and Jigsaw. Adoptees, birth parents, adoptive parents, and a few social workers spearhead social, political and legal action

1979 Courts begin granting adoptee access to their Court records "on any other special ground" s.23

1985 Adult Adoption Information Act. Provided adult adoptee access of right to their original birth entry, subject to veto and counselling provisions. Birth parents may also contact consenting adult adoptees. Either party can veto identifying information. Genetics *and* environment are *both* important. Adoptees need roots for self-identity, they have two sets of *real* parents, genetic and nurturing. New Zealand was the first Western country to open records to birth parents. Birth mothers *don't* forget. A major social change, by 1996 over half the adult adoptees knew their origins. Approximately 30,000 applications had been made by adult adoptees or their birth parents under the Adult Adoption Information Act, resulting in about 20,000 reunions. There has been a rapid increase in openness, honesty and integrity about adoption.

(2) Any such order may be made (a) For the purpose of a prosecution for making a false statement; or (b) In the event of any question as to the validity or effect of an interim, order or an adoption order; or (c) On any other special ground.” **Officiating Minister* replaced by *Marriage celebrant* Marriage Amendment Act 1976 s2(2)

Adoption Act 1955 s23 Amended 1985-1996+ “s23 Inspection of adoption records

(1) An adoption order shall be open to inspection by any person who requires to inspect it for some purpose in connection with the administration of an estate or trust of which that person is executor, administrator, or trustee.

(2) Adoption records shall be open to inspection by any Registrar of Marriages or marriage celebrant under the Marriage Act 1955 for the purposes of investigating forbidden degrees of relationship under the Act.

(3) Adoption records shall not be available for production or open to inspection except (a) To the extent authorised by subsection (1) or subsection (2) of this section or by section 11(4)(b) of the Adult Adoption Information Act 1985; or (b) On the order of a Family Court, a District Court, or the High Court, made- (i) For the purposes of a prosecution for making a false statement; or (ii) In the event of any question as to the validity or effect of any interim order or adoption order; or (iii) On any other special ground.

Origin and intention of section 23

Research sources

(i) 1952 Interdepartmental Adoption Committee files, they drafted the recommendations for the original Bill. (ii) Statutes Revision Committee minutes and papers. (iii) Cabinet papers. (iv) Department of Justice files. (v) Parliamentary debates. (vi) All relevant published case law, also many unpublished cases. (vii) Ombudsman and reports. (viii) Newspaper clippings. (ix) Interviewed three key members* of the 1952 Interdepartmental Committee. [*L G Anderson, Prof I D Campbell, Miss P M Webb] (x) Research overseas origins of sec 23, in Canada, USA and England. (xi) Appeared as an expert witness in several cases. (xii) Appointed as a Court mediator and expert witness. (xiii) Obtained Court orders to inspect adoption records. (xiv) Search of Court adoption records on behalf of the Court. (xv) Surveyed all available literature on the subject. (xvi) Written and published three books on the subject. (x) Compiled 35 volumes, over 15,000 pages of documentation on New Zealand adoption. Sources used by KCG.

1952 Interdepartmental Adoption Committee

— Membership

Department of Education, Child Welfare Division- L G Anderson, T P Cox, Miss K M Stewart, Justice Department- S Barnett, [Chairman Secretary of Justice] N Butcher, Miss P M Webb. Department of Maori Affairs- C Bennett, J M Mc Ewen. Co-opted Members- W R Birks [Solicitor], Professor I D Campbell [Professor of Law Victoria University], Mrs H C Sharpe [Department of Child Welfare.] The first meeting of the Committee was held 21st February 1952.

Deliberations section 23

— **Original Child Welfare Division proposals** to the Adoption Committee included Adoption Note No.29, one of 32 proposals. “No.29 Adoption Records confidential: The papers used upon an application shall not be open to inspection save upon the direction of a Judge of the Supreme Court. Most Canadian Acts have a provision on these lines”. Proposal Notes 23/3/1952 p6

— Canadian Statutes link

Canadian concern with confidentiality of adoption records was voiced during the 1959 United Nations debate on the ‘Declaration of the Rights of Child’. Uruguay had proposed that ‘every child was entitled to know who their parents were’. Canada opposed the move on the grounds that it would be contrary to its adoption law re confidentiality. *917th Meeting, of Third Committee, 14th Session of the General Assembly. 6/10/1959.* A compromise was reached in the final Declaration, whereby all children of no matter what status whatsoever- thus including adoptees were entitled to their birth name. Refer “Principles 1 and 3 of the U.N. Declaration of the Rights of the Child.” New Zealand gave its approval to this UN Declaration 20/11/ 1959. [It’s an odd twist, the author of this book has three times visited Canada to advise on adoption law reform re access to records. And in 1992 published a comprehensive book on the subject in Canada. “*The Right to Know Who You Are*” Pub 1992. ISBN 0-9695151-0-3. Some Canadian Provinces are now enacting Statutes similar to the New Zealand Adult Adoption Information Act 1985 KCG]

— First draft report

Recommendation No.35 reads, “Adoption records shall not be open to inspection except on the order of a Magistrate.” This draft was the work of Patricia M Webb.

— Justice Department response

In response to the first draft, Justice Department’s representatives Mr N Butcher and Miss P M Webb comment, “We think that recommendation No.35 should go further than at present agreed to and set out the circumstances in which adoption records may be inspected. Two cases we suggest as to the validity or effect of the order: but others may occur to the other members of the Committee.”

— Final recommendation

The Report, p12, contains the final recommendation on clause 36, became Sec.23 of Adoption Act 1955. 22/7/ 1952 “No.36. Adoption records shall not be available for production or open to inspection except on the order of a Judge or a Magistrate, the order being made (i) for the purpose of a prosecution for making a false statement; or (ii) in the event of any question as to the validity or effect of the adoption order; or (iii) on any other special grounds.”

— **First time “On any other special grounds,”** appeared in the Committee recommendations. I discussed this matter with Patricia Webb, compiler of the Report, and Professor I D Campbell, both members of the committee. Rather than attempt a detailed list of reasons for access to adoption records they left it to the discretion of the Court. ‘Any other special ground’ may be raised before the Magistrate or Judge, who has discretion to grant or refuse the request.

— Contemporary Court practice

The Committee states, page 5 of the Report, “The argument for [Recommended Clause 36] this is that as a matter of practice the Courts do not permit adoption records to be searched by anyone, but a subpoena can be issued for their production and it is believed that there is no claim of privilege. The committee thinks that the records should be regarded as absolutely confidential and not disclosed to anyone except in particular circumstances.” This is an important statement on the argument for, and intention of the recommendation that was to become Sec.23, of the Adoption Act 1955.

The statement “that as a matter of practice the Courts do not permit adoption records to be searched by *anyone*” needs careful examination. If it’s claiming no one could search adoption records without a subpoena I object on two counts. 1. I have documentary evidence including letters from Courts at the time, that as a matter of practice they allowed some parties to an adoption to search the Court adoption records. 2. To refuse access to the Court adoption records by the parties directly concerned would be to deny them their legal rights per Magistrates Court Rules 1948 Sec.25(3). “Nothing in this rule shall be construed to prevent any party to any proceedings from inspecting any entry in the Court books, or any document, relating to those proceedings”. I also referred this matter to the Justice Department Legal research section who confirmed the above points.

Patricia M Webb’s 1979 comments

“The criticism of the section [Adoption Act 1955 s23] is centered on the way it frustrates the desire, or need, of many adopted children to find out something about their origins; but I do not think this was the objective of those responsible for the 1955 Act. The Departmental Committee Report says (Para.xii (iii) that “as a matter of practice the Courts do not permit adoption records to be searched by anyone, but a subpoena can be issued for their production and it is believed that there is no claim of privilege. The Committee thinks that the records should be regarded as absolutely confidential and not disclosed to anyone except in particular circumstances?” This suggests a desire to protect the adopted person as much as anything and to that extent the section was the corollary of the provisions in successive Births and Deaths Registration Acts relating to entries for adopted children... *However, the fact that these various provisions were designed as a protection for the adopted person does not prevent their operating also as an obstacle to that person’s search for information as to his or her background.*” 1979 Review pp88-90. Patricia M Webb’s comments are significant because:- (a) She was a member of the 1952 Interdepartmental Committee. (b) A legal representative from the Department of Justice. (c) Lifetime association working with Statutes. (d) She had just retired as Senior Legal Advisor to the Department of Justice. (e) The Department of Justice commissioned her Report. (f) She was responsible for compiling the 1952 Report.

Adoptee access to records not considered

I discussed this matter in 1981 with three members of the 1952 Adoption Committee. [Miss P Webb, Prof I D

Campbell and Mr L G Anderson] None could recall any discussion on the question of restricted access to adoption records being used to block an adoptee obtaining information on their origins. The matter was never discussed by the Committee. Their concern was with the protection of the adoptee, from other persons obtaining information concerning them. They were also concerned that adoption records should not be used to obtain evidence of adultery in divorce cases. A search of the 1952 Adoption Committee minutes and files also found no reference to any discussion of adoptee access to birth information, nor any indication this was a considered factor in the Bill.

Thus while it would be erroneous to claim it was the intention of the Adoption Act 1955 Sec.23 to block adoptee’s access to their birth information, it would be true to say that the construct of the Section 23 can be used to that effect.

Parliament

Consideration Adoption Act 1955 Sec.23

Cabinet

A summary of proposed adoption legislation was presented to Cabinet by the Minister of Justice on 18th July 1953. Page 4(4) summarises the confidentiality aspects. “That a Judge’s or Magistrate’s order be required for the production or inspection of adoption records and then only on special grounds.” A steering Committee with the Attorney General as convener was set up. On the 17th of August 1953 “Cabinet approved the preparation of the Bill for introduction this Session along the lines of the Interdepartmental Committee’s proposals subject to the amendments recommended by the Cabinet Committee.”

First reading

Adoption Bill No.117-1 introduced to Parliament, on 29th September 1954. “s24.(1) Adoption records shall not be available for production or open to inspection except on the order of the Court or of the Supreme Court: Provided that the adoption order itself shall be open to inspection by an executor or administrator or trustee who requires to inspect it for some purpose in connection with the administration of an estate or trust. (2) Any such order may be made (a) For the purposes of a prosecution for making a false statement; or (b) In the event of any question as to the validity or effect of an interim order or an adoption order; or (c) On any other special ground.” Bill referred to Committee of Whole House. *NZPD* 1955 Vol.304 p2034. A redrafted Bill was read the First time on 4th of May 1955. In the new Adoption Bill draft No.21-1, s24 remained unchanged. *NZPD* 1955 Vol.305 p746.

Second reading

Adoption Bill No.21-1 read a second time and referred to the Statutes Revision Committee on 6th May 1955. *NZPD* 1955 Vol.305 p929.

Submissions

There were only two submission to the Statutes Revision Committee re confidentiality clause 24.

1 Magistrate S Paterson, submission to Secretary of Justice. “Clause 24: Too restrictive.” 23rd August 1955.

2 Catholic Social Services. “Submission Clause 24: Sub-

clause (1). We recommend an addition to the end of this Sub-clause as follows: ‘administration of an estate or trust, and by any Registrar of Marriages or Officiating Minister under the Marriage Act for the purpose of investigating forbidden degrees of relationship under the Act.’ We consider that explicit provision should be made for the inspection of adoption records by Registrars or Ministers at the request of adopted children contemplating marriage. The present Bill, in Clause 16(2)(b), preserves the adopted child’s natural relationships for the purposes of forbidden marriages. The various religious bodies also have pre-marriage requirements in this matter. The method we suggest of obtaining the required information provides adequate safeguards against any abuse of its confidential nature.” Rev O’Neill Director Catholic Social Services 17/8/1955

Statutes Revision Committee

26th August 1955 recommended Clause 24, sub-clause(1): To add words- “by any Registrar of Marriages or Officiating Minister under the Marriage Act 1955 for the purposes of investigating degrees of relationship under the Act.” This was referred to the Department of Justice for comment- marked attention Miss Webb. A hand-written note suggests wording becomes, “Provided also that the adoption records shall be open to inspection by any Registrar of Marriages or officiating Minister etc.” Added note ‘Not Order only- need to see all records - yes.’ To check an adoptees range of prohibited marriage relationships requires much more data than is on an adoption order, in fact, from my own experience it is impossible to check even half the relationships from full Court records.

Statutes Revision report to House

20th September 1955. They proposed a new addition to Clause 24 after the words estate or trust: “Provided also that the adoption records shall be open to inspection by any Registrar of Marriages or officiating Minister under the Marriage Act 1955 for the purposes of investigating forbidden degrees of relationships under the Act” Adoption Bill No.21-2 **Debate** Adoption Bill No.21-2 committed for debate in House, 26th October 1955. An extensive debate but no reference of Clause 24. **Third Reading** Bill reported with amendment and read a third time. *NZPD* Vol.307 pp3346-59. Enacted, Clause 24 re-numbered 23.

Summary comment section 23

1 Section 23 had origins in Canadian Statutes. Until recently most Canadian Provinces and US States had adoption Statutes that did not allow access to records.

2 The 1952 Interdepartmental Adoption Committee, while stating some specific reasons for access to records, purposely added the sub-clause ‘On any other special ground’ granting the Judge discretion, provided ‘special grounds’ were established to his satisfaction.

3 It’s sometimes claimed, an intention of Section 23 was to block adult adoptee’s access to the truth of their origins. This was not the *considered* intention of the Legislators, attempts to read this intention back into the Legislation should be avoided. The fact that it was not an intention does

not give adoptee’s any right of access. The fact is, the clause does place an obstacle in the way of searching adoptees. They must satisfy a Judge of a ‘special ground’. Statutes may be used for purposes not intended by Legislators. **In a court of law, the interpretation must rest on the construct of the clause**, the intention of the Legislators is secondary. It’s ironic the Legislation originally intended to protect adoptee’s became an obstacle to them. This anomaly has now been addressed in part by provisions of the Adult Adoption Information Act 1985.

Interpretation ‘On Any Other Special Ground’

Meaning of words

Each word is examined for its meaning in the Oxford English Dictionary 12 volume set.

— **Any** “indifference as to the particular one or ones that may be selected...no matter which; any whichever, of whatever kind, or how many...Of any kind or sort whatever.” Oxford English Dictionary Vol.1.

— **Other** “Existing besides, or distinct from, that already mentioned or implied; not this, not the same, different in identity ... Other was formerly used to characterize things as of a different kind from those previously mentioned” Oxford English Dictionary Vol.7.

— **Special** “Marked off from others of the kind by some distinguishing qualities or features having a distinct or individual character.” Oxford English Dictionary Vol.10.

— **Ground** “A circumstance on which an opinion, inference, argument, statement or claim is founded, or which has given rise to an action, procedure, or mental feeling; a reason, motive. Often with additional implications: A valid reason, justifying motive, or what is alleged as such.” Oxford English Dictionary Vol.4.

Meaning of phrase

The meaning would appear to be clearly that any ground may be raised as a reason for inspection of the Court Adoption Records, **but it must be ‘special’ not general** The Court will also need to be convinced that the ‘special ground’ is of sufficient importance to warrant the granting of an order for inspection of the adoption records.

— The word ‘ground’

has a very wide meaning. For example an adoptee could raise as a ground the particular circumstances that led to the application, mental state, reasons and motivations. Self-identity crises that are endangering mental health or marital relationships. Genetic or medical grounds. Therefore practically any physical or mental aspect of an adoptee that is significantly affected by the secrecy of the adoption origins could be raised as a ‘ground’.

— The word ‘special’

however clearly places one restriction on the ‘ground’ or ‘grounds’. The grounds have to be in some way ‘special’, not general, they must have a distinct individual character, feature or importance not of general application. Thus general grounds are ruled out, ‘special’ ground or grounds must be established to the satisfaction of the Court.

— The word ‘other’

can mean *like or distinct* from the grounds or reasons previously mentioned in Section 23(1-2). If the phrase was simply ‘other special ground’ then a case can be made to restrict application to grounds like those already afore mentioned, or alternatively to those ‘other’ or ‘distinct’ from those already mentioned. However any doubt on this point is clearly settled by the use of the preceding word ‘any’.

— The word ‘any’

meaning ‘indifference as to the particular one or ones that may be selected. No matter which; any whichever, or whatsoever kind...of any kind or sort whatsoever’. *The word ‘any’ thus has the effect of lifting the restriction on the word ‘other’.* Thus ‘any’ special ground may be raised and is not restricted by the preceding special purposes for inspection in Section 23.

— Limitations on ‘any other grounds’

There have been cases where Judges have interpreted ‘other special ground’ to limit the ‘grounds’ to those similar to ones preceding it.* I consulted the authoritative texts on the subject and have also consulted personally with several leading authorities in English usage and its legal application in both New Zealand and England. All experts agreed that the addition of the word ‘any’ lifts the restriction on ‘other special grounds’.

If the phrase was simply ‘other special ground’ it *could* restrict the grounds to those that had preceded it. However that is not the case, the phrase is, ‘any other special ground.’ In examining the construct of a phrase, the whole phrase must be taken into account. To base an interpretation of the construct of a phrase that ignores one important word in that phrase would be a fundamental error. The argument that adoptee access to adoption records cannot be allowed “on the any other grounds” because the grounds must be restricted to those preceding it, has become untenable since the Adult Adoption Information Act 1985 was inserted as a preceding provision in s23.

— Importance level ‘any other ground.’

It has been argued* that ‘any other special ground’, while conceding ‘any’ may be raised they should be of the same level of importance as those preceding. This is not the same as saying the ground should be similar to those preceding but rather of similar weight and importance. I have no fundamental disagreement with this argument. The hassle created by some special issues that adoptees face can be every bit as devastating, in fact often much greater, than the other grounds provided in the Adoption Act 1955 s23. **Re and Application by B* 1976 1DCR 22. *Re an Application by Tarita* 1983 2FLN92 at N136. *In re M* (1984) 10NZRL 384

Inspection forbidden marriage degrees

Section 23(2) “Adoption records shall be open to inspection by any Registrar of Marriages or marriage celebrant under the Marriage Act 1955 for purposes of investigating forbidden degrees of relationship under the Act.”

For adoptees, forbidden relationships of the Marriage Act apply to both adoptive and birth relatives. That means 40 forbidden marriage relationships for adoptees, 20 birth

relationships and 20 adoptive relationships. The law places the onus on adoptees not to enter into a forbidden marriage relationship, but at the same time denies them the truth they require. The provision attempts to provide a way of checking. However it is an exceedingly difficult task, lack of data normally makes it impossible to check most of the forbidden birth relationships.

Defining Court adoption records

Adoption records in section 23 include all papers on the Court adoption files. This would also include the adoption register containing a record of all applications under the Act and a minute of decisions given and orders made on such applications, together with all files containing all documents relating to the applications. Section 23 does not extend to cover adoption files, copies, or private papers relating to adoption files held other than on the Court file. Therefore section 23 cannot be invoked to cover adoption records held by Social Welfare, a solicitor or any other person. See case law 1978 Legal Opinion Northern News 1978 Issue No.34 and 1883 Hillyer J Auckland HC *D v Hall*. [1984] 1NZLR 727

NOTE Maori adoption records published 1902-1956

Full details of all Maori Land Court adoptions were published in the *NZ Gazette*, and ‘*Kahiti*’ (*Maori Gazette*). To Maori it was quite right and proper. For them adoption is an important public act. There is no secrecy or shame involved in Maori adoption or adoption records.

Case Law Access to Adoption Records

1965 Complaint to Ombudsman re RG decision

Declined. The complainant believed she was the natural daughter of her parents, however after the death of her parents some relatives insinuated she was adopted. She applied to the Registrar-General for a copy of her original entry, was refused and appealed to the Ombudsman. The Ombudsman found the Registrar-General acted within his powers, and also should not act in contravention of the Adoption Act 1955 s23. However, he also pointed out the interpretation of the word ‘material’ in the Births and Deaths Registration Act 1961 s4(7) could be significant and the complainant could dispute the decision of the Registrar-General by appealing to the Court. As far as I am aware no court action was taken. However, the Ombudsman’s suggestion resulted in an amendment- Births and Deaths Registration Amendment Act. 1969 s3. Commented on by P.Webb ‘A Review of the Law on Adoption’ 1979 p90. I was informed by the Ombudsman that there were two similar cases dealt with to similar effect in 1970 and 1973, they remain unpublished.

1965 Ombudsman’s Report to House

Case No 1599 “The complainant believed that she was the natural daughter of her parents, both of whom had recently died, but after her father’s death elderly relatives and others commenced making statements to the effect that she was not the natural child of her parents, but had been adopted by them in early infancy, and that her natural mother was, in fact, her adopted mother’s sister, with

whom her father had an illicit relationship. The complainant therefore applied to the Registrar-General of Births for a copy of her original birth certificate stating she was, in fact, an adopted child, it was 'material' for her to know the identity of her natural parents. The Registrar-General refused to supply a copy of such a certificate upon the ground that the reasons advanced in support of the application were not 'material' within the meaning of section 4(7) of the Births and Deaths Registration Amendment Act 1961. The complainant in effect said that as her presumed parents were now dead she felt that she was entitled to know, as a matter of right, whether she was their natural child, and, if not, whose child she was. My resulting inquiry raised some interesting considerations. It was, of course, obvious to begin with that when a person applies for an original birth certificate and the application is refused by the Registrar-General under the above section, this is notice to the applicant that the person concerned is, in fact, an adopted child. It was clear, however, that the legislature had good reason for placing a restriction upon the issue of a certificate giving particulars of the original entry, which could, of course, mean disclosing names. While there is some sympathy with the claim by an adopted person to know the identity of his natural parents, yet on close examination I came to the conclusion that this contention was contrary to the generally accepted social and legal principles of adoption. The principles of adoption require an almost complete severance of a child from the natural parents and a complete adoption by the adoptive parents of the child as their own. I understand it is to be regarded as sound social and child welfare practice to inform a child that it is an adopted child almost as soon as it is able to have some understanding of the meaning of this information, but no authority ever suggests that the child should at any time be told who its natural parents were. To do so would be to open avenues for breaching the principles of the adoptive system itself and for personal distress, and for possible claims and pressures of an improper nature.

Furthermore, section 23 of the Adoption Act 1955 gives a fairly clear guide to the intention of the legislature upon the availability of adoption records for inspection. It provides that with the exceptions not applicable to the present case, adoption records are not available for production or open to inspection except on the order of a Court which may be made for the purposes of a prosecution for making a false statement, in the event of a question as to the validity of the order, or on any other special ground. It would be anomalous if information obtained from the Court records only on the order of the Court, and then only in restricted circumstances, could be readily obtained from the Registrar-General by means of a certified copy of the original entry of birth. I did not feel it necessary to examine the full scope and intention of the word 'material' because I felt it clear that a simple desire to know the names of one's natural parents is not within the terms of the section. I therefore informed the complainant accordingly but pointed out that the issue really involved a question of construction of a statute, and that if the complainant wished to proceed further her proper course would be by way of action in the

Court to compel the Registrar-General to do what she maintained he is lawfully required to do. I said, as Ombudsman, I did not feel that could justifiably criticise the Registrar-General for adopting an attitude which could be well supported on general principles, even though there might be some dubious elements associated with the construction of the statute." *Appendix to Journals of the House of Representatives* 1965 pp33-34

Comments re Ombudsman case No.1599.

This case is significant, its the first published case where the secrecy provisions, intended by all previous legislators to give protection to the adoptee from the stigma of illegitimacy are in effect used against the adoptee in order to deny them the personal truth of their origins. This point has also been raised by Patricia M Webb in her work commissioned by the Department of Justice. "However, the fact that these various provisions were designed as a protection for the adopted person does not prevent their operating also as an obstacle to that person's search for information as to his or her background, and the existence of the obstacle was made explicit in 1969, when I think under the prompting of the Ombudsman, though relevant papers have not been located the Births and Deaths Registration Amendment Act of that year required any decision on a request for inspection of, or production of particulars from, the original birth entry to be made by the Registrar-General (subject to appeal to a Magistrate) and enjoined him to be satisfied not only that those particulars were material for the purpose for which required but also, that it would not be a contravention of the principles set out in s23 of the Adoption Act to grant the request." P Webb 1979 p90. Thus, while it may not have been the intention of the Legislation to prevent adult adoptees obtaining the personal truth concerning their origins, the construct of the Legislation is such that it may, and has been used to that effect.

— Have adoptees a right to know they're adopted?

The first question the complainant sought answer. I'm aware of other cases where the Registrar or Courts have refused to confirm the adoptive status or otherwise of an applicant. I find this denial to be in conflict with basic justice and human rights. For example re Marriage, the Statutes place the onus on an adoptee not to marry a *blood* relation. If they unknowingly marry a *blood* relation within the prohibited degrees the marriage is automatically voided and there can be no appeal to any Court. Ignorance is no excuse. For Statute to place the onus on an adoptee because of their status, and then for the Registrar or Court to rule they have no right to know their status is a contempt of justice and human rights. While ignorance has been held to be no excuse, what if that ignorance is deliberately imposed by the law and Courts! I believe all citizens have a fundamental right to know their legal status.

— A way to find birth status

Under the Births and Deaths Registration Act 1951 s38 any applicant can request the Registrar to produce for *inspection* their *current* full birth entry. On paying the prescribed

fee the document *must* be produced for *inspection*. If you are adopted it will be so endorsed along with the date and Court issuing the adoption order. Some copies may omit this detail but the original current entry held by the Registrar always includes the information, and is open for inspection.

— **The Legislature had good reasons for restricting access to adoptee information?**

This statement of the Ombudsman has been taken by some people to support the claim that it was the considered intention of the Legislature to block any adoptee access to truth of their origins. My extensive research has indicated quite clearly that it was never the considered intention of the Adoption Committee or Legislature to block adoptee access to the truth of their origins. It was to protect the adoptee from disclosure to others, in particular their illegitimacy.

— **“The principle of adoption require an almost complete severance of a child from the natural parents”?**

Answer (i) The complete severance of knowledge or relationship between birth parents and the adoptee has never been a requirement, it may be a choice but not a ‘requirement’. (ii) In the year 1965 when the Ombudsman made this statement, approximately 30% of the adoptions made by Courts were between non-strangers. The notion that adoption ‘requires’ a complete severance between the child and its birth parents is not substantiated by Statute, or statistical analysis of adoption practice.

— **“No authority ever suggests that the child should at any time be told who its natural parents were”**

Answer. (1) A leading adoption worker in the United States, Jean N Paton was advocating adopted children be told their origins. Her books published in 1954 and 1955 had been on sale in New Zealand for ten years prior to the Ombudsman statement. (ii) In 1960 Alexina McWhinnie, a leading researcher in England advocated adoptees should be told of their origins and the law changed to provide for this. She was awarded a Ph.D from Edinburgh for her work. (iii) By the authority of New Zealand Statute the details of all adoptions by the Maori Court had to be published in the New Zealand *Gazette*, including the full birth name of the child and names of birth parents. (iv) For 35 years of our adoption history 1881-1915 adoptees were issued with their original birth certificate that included details of their birth origins and names of birth parents. (v) From 1881-1951 there were no restrictions on adoptees ‘inspecting’ their original birth entry. (vi) For 74 years [1881-1955] courts issued a copy of the adoption order, included the child’s full birth name, to adopting parents.

— **Conclusion**

I find no difficulty agreeing with the conclusion reached by the Ombudsman, that the Registrar-General acted within his power by refusing to issue of a copy of an adoptees original birth entry. It is some of his supporting statements that I question. We owe it to the office of the Ombudsman, that he was the first person to bring the issue of adult adoptee access to birth origins into open public debate by his report to Parliament.

Inspection of adoption records

1976 Gilliland SM Auckland MC *Re and Application by B 10/8/1976 Counsel R Ludbrook. Refused.* An adoptee aged 24 years applied to inspect her adoption record under ‘any other ground’, Adoption Act 1955 s23(2)(c). She wished to know her natural mother and also to ascertain if she had Jewish blood.

Held The facts did not constitute a special ground justifying inspection. The section [Adoption Act 1955 s23] poses no real problems of construction. The general policy of the section is clear. This policy is reinforced by a consideration of the Act. (a) Applications for adoption are not heard or determined in open Court. No report of proceedings can be published except by leave of the Court (s22). It might be said that ‘published’ is synonymous with ‘making generally known’ and is not confined to publication in newspapers. (b) An adoption order has the effect of severing the old parental tie and creating a new parental and filial status (s16). There are exceptions. These have an overriding public interest flavour- consanguinity, rights under settlements. (c) The birth record is changed. The adoptive parents appear as parents and the original registration of birth disappears. (d) An adoption order can only be discharged with the prior approval of the Attorney-General (s20) (e) The consent of a natural parent can be given on an “anonymous” basis (s7(6)). It must be conceded that this particular adoption did not so proceed. It was in the terms of the Infants Act 1908. There was limited disclosure of the surname of the child prior to adoption.

Pandora’s Box

There are many adoptions where the adopting parents did not wish to know the identity of the natural parent(s) and vice versa. This is easy to understand. There could be all kinds of problems caused by such knowledge. All parties realise that such knowledge is a veritable ‘Pandora’s Box’ of trouble and embarrassment. As a matter of experience it is not surprising to find that most adoptions proceed on the “anonymous” basis. The nature and circumstances of adoption are such that difficult decisions are made and having been made must remain locked in the confidentiality which all parties expected of the proceedings. Cases of deliberate knowledge may be different. In the absence of a clear indication of such deliberate knowledge, however, the Court should not lightly erode the confidentiality of the proceedings.

Confidentiality

I have no doubt that s23 was enacted with all these matters in mind. The section itself emphasises the point. (a) The records are not available without leave of the Court. (b) The adoption order as distinct from the *records*, may be inspected to resolve succession problems. (c) Forbidden degrees of consanguinity are not shielded but such investigation of the records is limited to the Registrar of Marriages or the officiating minister. Publication of the contents is prohibited (s22 ante) (d) Application can be made by *any* person but the grounds are limited. It is easy to understand subss (2)(a) and (2)(b). It is the third ground that effects this application - ‘on any other special ground.’ (e) The word ‘special’ is not really a term of art. The word imports

particularity or peculiarity as distinct from generality. The 'special reasons' cases in transport and narcotics legislation emphasises this. What is 'special' depends on a set of facts and can be more easily recognised than defined. (f) It must also be noted that the word "special" is prefaced by the word 'other.' This clearly ties the three grounds together and indicates the type of genus contemplated and the level of general importance which must be met.

Three different sets of persons to be considered

(a) the natural parent(s), (b) the adoptive parents, (c) the adoptive child. Each may have a very strong claim for different reasons to the confidentiality of record that the statute affords. When this kind of application is made, notice cannot be given to all interested parties as in an ordinary case. Apart from the practical difficulties of ascertaining the present whereabouts of people after many years, such notice would destroy the very thing the statute seeks to protect. The Court must, then, protect parties not before the Court and require the party seeking the order to establish entitlement strictly within the terms of the section and the policy of the Statute generally. I am aware of the pressures to remove this confidentiality. This cannot affect the matter as it stands. I merely comment that this is a matter of legislative policy which has a sensible and protective basis. I am not aware of any case law on this particular point. The case of *In Re E* [1958] NZLR 532 is not in point. Each application must be dealt with on its own facts. The matter to be decided by the Court seems to be: (1) What are the facts? (2) Do these facts constitute "any other special ground"? (3) If this is established, should the Court exercise its discretion and make the order sought as a matter of fairness and justice?

What of the application?

The order was made in 1951. It was made in terms of the Infants Act 1908. In the order there was disclosed the surname of the child. This was not unusual before 1955. There was no "anonymous" consent available under that Act. The applicant, the adopted child, is now 24 years of age. She is a teacher. Her adoptive mother consents to the records being made available. The adoptive father died in 1971. The applicant wishes to know and meet her natural mother. She realises that her natural mother may not wish to meet her. The applicant says she would be happy for any order to be conditional on the consent of the natural mother being given. She often thinks of her natural mother and wonders if she is alive and what she may be doing. The applicant considers that she may have Jewish blood. It is suggested that she has Jewish features and this has been a matter of comment. She has spent time in Israel and would like to return there. She would like to know if in fact she has Jewish blood.

Do these facts constitute 'any other special ground'?

I make these comments (a) The adopted child, the applicant, is now of an age when the stability of the adoption itself would not be endangered if an order were made and the natural parent(s) located. (b) That the surviving adoptive parent consents to the order sought is not compelling in this case. (c) The Court is concerned about the natural parent(s) after 24 years have elapsed. The sudden and

perhaps unwanted appearance of the applicant could have consequences out of all proportion to satisfying the applicant's quite natural curiosity. The Court is not entitled to presume that the natural parent(s) would consent to the order. (d) It is not possible to impose a condition that the natural mother give her consent. There is no jurisdiction for this and the Court has no way of achieving it. Furthermore this could, as I have said, be self-defeating. (e) It is natural and certainly not peculiar or special that the applicant should wonder about her mother. (f) The matter of "Jewish blood" cannot be more than pure speculation. This could apply to many non-Jewish people. The mere possibility of 'Jewish blood' of whatsoever degree cannot be regarded as 'special.'

Conclusion

On the facts of this application the leave of the Court must be refused. No question of the discretion of the Court to make the order arises. Nor does the Court have to consider whether a stranger to the adoption has a higher relative onus than, as here, one of the parties affected. This is a factual inadequacy which fails to meet the statutory test. Because Mr Ludbrook, who has presented this application in a most responsible manner, has indicated that this may well set a test case, I stated my reasons at some length. It did not occur to me that in such applications the Court should have power to appoint counsel for the parties not before the Court. However, there is no authority for this. It also appears from the section that there is no power to restrict the inspection of the records or to have limited release of detail or to impose conditions to meet a particular case. These are matters which might commend themselves to those responsible for this legislation. Application refused. 14MCD 198

Case Comment *Application by B* 1976

"All parties realise that such knowledge is a veritable Pandora Box of trouble and embarrassment." p199

This was a very real fear in 1976. Many believed that untold harm would result from adult adoptees being given their full birth information. As a result of the strong fear expressed by the Magistrate and others, I undertook at the request of Hon J Hunt to research the subject. I made contact with Officials in countries that grant adult adoptee access to their birth origins. Replies were received from the Registrar-General Scotland on 50 years experience. The Registrar-General England on 3 years experience. The Ministry of Justice, Holland on 22 years experience. Ministry of Justice, Israel on 20 years experience. Director of Adoptions Finland on 54 years experience. That was at mid 1980. Significantly, none of above authorities could recall any case on their files of any complaint being made, and there was no evidence of the feared 'Pandora Box' effect. That is not to say there were no difficulties, but it is significant that none reached an official complaint level. Over 12,000 adoptees had been granted their birth information without any official complaints! Significant beneficial results were reported from each country, mainly in resolving self-identity issues of adoptees and unresolved grief of birth parents. Experience of reunions in New Zealand were in line with overseas experience.

— **‘As a matter of experience it is not surprising to find that most adoptions proceed on the ‘anonymous’ basis’** p199. In the year 1976 [of this judgment] Official statistics show that 58.8% of adoptions were not made on an anonymous basis.

— **The nature and circumstances of adoption are such that difficult decisions are made and having made remain locked in the confidentiality which all parties expected of the proceedings’.** p199

— **‘All parties’** The Magistrate touches on a subject, probably inadvertently, that has become quite a contention in adoption law overseas, particularly in USA.

— **‘How many parties are there to an adoption?’**

In the above case it could be inferred that the adoptee is not a party, because the adoptee had not agreed at any stage to the ‘confidentiality which all parties expected’. In some USA courts it’s been held, there are only *two parties* to an adoption, birth parents and adoptive parents. The child is simply in effect the ‘goods’ transferred in an adoption contract. This raises the question of what are the legal rights the child? Also of how binding is a contract made between parents concerning a child, when the child become an adult? Can you be held to a contract that you have never been a party to? Other courts hold there are *three parties*, the child is a party. This then raises the question- If the child is a party, then when is the child consulted? How binding is contract on confidentiality between three parties, when one party has never been consulted? Should a Court sanction a contractual agreement between three parties, when one party is never consulted, and where the Court undertakes as part of its function to keep important details of the contract secret from one of the parties- the one that is never consulted? The answers to these loaded questions are difficult. Adoption is based on a legal fiction and fiction will inevitably create problems interfacing with other Statutes, legal principles and human rights.

— **Argument ‘other special ground’ must be linked and restricted to grounds similar type or genus as those in the preceding parts of Section 23.** As pointed out in the Judgement, the words “ ‘special ground’ is pre-fixed by the word ‘other’, and therefore it can be argued that the grounds must be linked with those listed previously in Sec.23. As that stands there is a strong case for taking the Magistrates view, although it should be noted that ‘other’ is a often used to ‘distinguish’ or ‘distinct’ from. My main criticism is the Judgement ignores the fact that the word ‘other’ is prefixed by the word ‘any’. ‘Any’ means ‘indifference as to the particular one or ones that have been selected...no matter which; and whichever, or whatever kind, or how many...of any kind or sort whatsoever.’ Oxford English Dictionary Vol.1. The word ‘any’ clearly lifts the restriction on the word ‘other’. Thus ‘any’ special ground may be raised and is not restricted by the preceding special purposes.

— **The sudden and perhaps unwanted appearance of the applicant could have consequences out of all proportion...** The statement of the Magistrate needs to be placed alongside the expressed willingness of the appli-

cant ‘happy for any order to be conditional upon the consent of the natural mother being given’.

— **‘Jewish blood cannot be more than pure speculation.’** True, the adoptee can only speculate when the law denies them the truth of their origins. Likewise the assumption that she is not of Jewish blood may be pure speculation. As the applicant expresses her intention to return to Israel the issue of ‘Jewish blood’ could have special importance re citizenship in the State of Israel.

— **Conclusion**

The applicant on having her application to inspect her adoption records declined, became more determined than ever to find the truth of her origins. Her continued search resulted in contact with birth relatives.

1977 Case1 Sullivan SM Wellington MC 4/3/1977 Counsel Hardie-Boys (Unreported) Declined. “An application for an order for inspection of adoption records. The applicant, a married women living with her husband and six children of whom three are adopted. She has been aware for many years she herself was adopted but did not know the identity of her birth parents. In recent years she became concerned to know about her natural mother, particularly as to whether or not she is still alive and whether she is being cared for. She disposes that she is making this enquiry not out of a sense of curiosity but in order to see whether she can establish whether her mother is alive and, if so, whether she needs any assistance. For some months this matter has been causing her concern and she has been suffering depression as a result of anxiety about her identity. Mrs M gave oral evidence and impressed me as a genuine person who is worried lest her mother be alone and unloved. She is in a position to give assistance to her mother if necessary and this anxiety is aggravating a hypertension condition from which she suffers. I accept that this is not a case where curiosity has initiated an enquiry but is a genuine request from a daughter to ascertain whether her natural mother is in good health and in need of financial aid or affection.

Regrettably, I decline the application.

There seems to be a dearth of authority on the matter. Enquiry from the Registrar of Births, Deaths and Marriages discloses that he is unaware of any order having been made of this nature. However, lack of precedent would not have dissuaded me from granting permission if it were not for the fact that other people could be involved. I would have willingly acceded to Mrs M’s request were it not for the fact that I believe the court should give consideration to the feelings of Mrs M’s natural mother if she is still alive. It is over 40 years since the order of adoption was made. I do believe that it could cause possible distress to Mrs M’s natural mother if contact was made at this time. It could well be that other family relationships could be involved, eg., possible half brothers and half sisters and they could cause embarrassment. Mrs M will be distressed by my decision but I feel that the possibility of harming existing relationships would be created if permission was given.”

Case Comment

The case highlights the dilemma of the applicant and Magistrate. Neither have access to the required facts on which to base their prediction of what might happen if contact was made with the birth mother. In this case you have the unsubstantiated imagination of the applicant being countered by the unsubstantiated imagination of the Magistrate. This is not a good basis for making judicial decisions, but what else can they do without facts. The only way to test the predictions would be to see what actually happened when contact was made.

— **Contact** The applicant made contact with birth relatives on her own initiative. Therefore we can examine the predictions and concerns of the Magistrate with the actual reality. The Magistrate: “I would have willingly acceded to Mrs Ms request were it not for the fact that I believe the court should give consideration to...1. Feelings of the natural mother if she is alive. 2. Distress to natural mother if contact was made at this time. 3. Half brothers and half sisters could cause embarrassment.”

— **What happened** 1. The birth mother had died. 2. There was no distress. The sister-in-law was delighted, she only wished contact could have been made when the mother was alive. “It would have been a tremendous blessing to her to know what happened to you and to meet you.” Contact took place on Mother’s Day 1978. Mrs M placed flowers on her birth mothers grave. Now for the first time she was able to know the truth, and pay tribute to the mother who gave her life. 3. The birth mother had never married. She had left some personal articles in case the child ever turned up. The success of the outcome of this case is no proof that other cases will have a similar outcome. The Magistrate must consider the possible hurt to the natural mother, along with continuing hurt and loss experienced by the adoptee. He must also consider that may be, no one will be hurt, and a lot of benefit results to all parties concerned as happened in this case.” [Note: In 1977 there was little collected data on reunion outcomes. By 1995 over 15,000 reunions had taken place, we now know that over 80% have substantially positive results]

1977 Case 2 Auckland July Declined. (Unreported) Applicant Mrs MD applied to the Auckland Magistrates Court to access her Court adoption records. The reply 20th July 1977, “Thank you for your letter of 14th July 1977, which was placed before a Magistrate for his direction. We are unable to supply the information you require”. Yours Deputy Registrar. Case was reported in Parliamentary Petition No.77/16 of Mrs Jo Ripley and 533 others [Jigsaw Inc] praying for amendment to the Adoption Act 1955. Date of Petition 2/8/1977.

1977 Case 3 Wellington M 9/9/1977 Declined. (Unreported) Applicant a married man in his thirties, lived in Auckland. He had searched for information on his birth mother for several years and had gone to great lengths and expense exploring all avenues for information. He applied to the Wellington Magistrates Court where his adoption records were held. The applicant did not appear in person,

and unfortunately did not retain a copy of his submission. The reply 9th September 1979 reads. “I acknowledge receipt of your letter dated 3rd September 1977, in which you apply to search your adoption file. The matter was put before a Magistrate who refused your application.” Yours faithfully, Deputy Registrar.

Note It was at this stage, the end of 1977, that the attention of the author was drawn to the previous cases, and the fact that all were declined. I began researching the subject, and consulted with the Mr Gavin- Senior Legal Advisor to Social Welfare and I D Campbell the Professor of Law at Victoria University. I also teamed up with George Rosenberg, a solicitor then practicing in Newtown, Wellington. This research led to the preparation of a test case in 1978.

1978 Case 4 Sullivan* SM Wellington MC 6/10/1978 *Counsel G. Rosenberg.* (Unreported) Granted. As the first documented case of an adoptee being granted access to Court adoption records it is of considerable interest. Background: Mrs S a married woman, aged 31, asked her solicitor to make application per the Adoption Act 1955 Sec.23(2)(c) to access her Court records, the solicitor contacted the author. *Senior Domestic Court Magistrate.

Special grounds Self-identity crises of applicant and humanitarian concerns. Witness KCG gave oral evidence based on experience and extensive research. Also personal experience of being an adoptee in reunion. The outcome of case No.1 was also revealed to the Magistrate.

Oral decision “Access be granted to the Court adoption records of the applicant on condition (a) Witness KCG be appointed as Intermediary. (b) Applicant refrain from contact with birth mother other than through the Intermediary with the birthmothers consent. (c) The Magistrate be informed of results when enquiries are completed.”

Result. The birth-mother was located, and was keen to make contact. The contact continued to be beneficial to both parties. [It’s a small world. The applicant discovered that her great-grandfather and my own great-grandfather were close friends at Akaroa in the 1860-70s. KCG]

Defining Court adoption records

1978 Legal Opinion November 1978. The Council of the Auckland District Law Society sought a legal opinion from Auckland barrister Robert Smellie. It concerned what right a birth mother had to access her solicitors adoption file? **Held** The solicitors files cannot be covered by Adoption Act 1955 s23. “The second issue...was whether or not the prohibition in section 23 of the Adoption Act 1955 against production or inspection of ‘adoption records’ altered the position. He concluded that the plain literal meaning of the words ‘adoption records’ in the context of section 23 meant the records of the court and did not extend to the contents of the files of solicitors acting for parties involved in adoptions.” *Northern News.* Newsletter of the Auckland District Law Society Nov 1978. Issue No.34 pp1-2.

1979 Case 5 Gilbert SM. Wellington MC 20/3/1979 *Counsel B.R. Boon* (Unreported) Granted. Applicant: Mrs R a 33 year old married woman. This case was

prepared in light of experience of Case No.4. Special grounds: Specific self-identity problems, loss of both adoptive parents and no living adoptive relatives. Result. Application granted subject to use of a mediator, no identifying information to be given to the adoptee without consent of the birth mother. The birth mother agreed to meet the adopted person. The birth father and mother had married and had a further child. The birth mother was very pleased to link up again with the daughter. The birth father had been killed in an accident. The adoptee met her full blood sister and they got along well together. A few months after the reunion the birth mother became terminally ill with cancer. The sisters were able to share the load of caring and grief. The adoptee overcame much of her self-identity conflicts and became a much stronger and happier person. The birth mother was very grateful to the Court for allowing re-establishment of contact within the family.

1979 Case 6 Paterson SM Christchurch MC 15/6/1979 *Counsel K.G. Hales* (Unreported) Granted. The applicant, a 37 year old married farmer. Grounds: Self-identity problems, difficulty in relationships, feeling incomplete and medical grounds. The case was granted subject to a mediator. The Mediator had considerable difficulty in tracing the birth parents. I do not know the end result.

1979 Case 7 Wellington MC 18/12/1979 *Counsel de-Joux-Ryan* Magistrate unknown. (Unreported) Granted. Applicant by 58 year old male factory worker. Suffered much abuse as a child. Was deserted by his adoptive mother at age of four. The father remarried, but the stepmother carried on the beatings. The violence resulted in several broken bones. The father died, and he now has no adoptive relations. The applicants wife recently died of cancer, and he himself had a heart attack. He sought contact with his birth mother in the hope of finding some normality. [I don't know the outcome. Prior to the application I had a vivid experience of him turning up at a prospective adoptive parents meeting. He told his horrific story to a horrified audience. No doubt everyone still remembers the bone crushing detail. After complaints and hospitalization no one had believed him. He was sent home to receive more broken bones. He bared his twisted arms to show the consequences of the child abuse. He also gave helpful tips on how to survive an adoption. KCG]

1981 Case 8 Palmerston North MC (Unreported) Granted. Applicant an adoptive mother. Her 13-year-old adopted son was having a severe self-identity crises. The condition creating problems with his school work and a very strained relationships in the home. A Mediator was appointed and contacted the birth mother. A meeting was arranged between the birth and adoptive mother's, this proved very beneficial. It was followed up with a letter from the birth mother to the adopted child, including photographs. The knowledge exchanged seems to have satisfied the child's needs and there was a marked improvement in behaviour.

1981 Case 8 Wellington MC (Unreported) Granted. The applicant a woman in her twenties. The grounds were medical plus self-identity crisis. Eventually contact was made with her half-sister. They have established a close relationship that has provided the answers sought. As the birth mother is understood to have had some difficulty in her family relationships, the applicant has indicated she does not want any contact with her birth mother at this stage. She is fully satisfied with the relationship established with her half-sister, and this answered her needs.

1981 Case 9 Pethig DCJ Wellington FC ?/11/1981 (Unreported) Granted. Applicants were adoptive parents of a 16 year old boy. The adoptee suffered a severe identity crisis, to the extent he was unable to cope with life and was in a psychiatric hospital. Anorexia Nervosa 2 years and very strained relationships within the family. The special grounds were medical and psychological. All other treatment had failed. The birth parents were contacted, and willing to help. Provision of birth information appears to have caused considerable improvement re self-identity. He left hospital within a few weeks of receiving and took up work. There had been no return of the Anorexia Nervosa as at July 1983. He established a genetic identity with his birth parents, and now relates to both sets of parents. This was a severe case of special medical interest. The possible link between self-identity formation and Anorexia. Failure of adequate self-identity formation could be a causation factor of Anorexia Nervosa?

1982 Case 10 Palmer DCJ Christchurch FC 3/4/1982 *Counsel K Hales* (Unreported) Granted. Applicant 28 yr old married woman adoptee. Special ground was a medical condition with likely genetic origins. Specialist medical evidence provided. After a long search the birth parents were located. Apart from medical information obtained, it resulted in the formation of a very meaningful relationship between the applicant and her birth mother. It would appear that the resolving of the personal identity crises in the adoptee has done more to resolve the general medical condition, than the actual medical information obtained.

1982 Case 11 Pethig DCJ Wellington FC 6/4/1982 (Unreported) Granted *Counsel G Rosenberg* Applicant, male 35 year old married adoptee. Suffered identity problems since 8 years old. Disturbed teenage years, and later in trouble with the law. Unable to relate at depth to anyone, felt he did not belong anywhere, in spite of having a very understanding Maori wife. His search for origins became an obsession, he spent holidays searching and became more and more desperate, even made plans to break in to get his records. The Court granted an inspection order. A long difficult search revealed the birth mother married 4 times, plus a name change by deed poll. When contacted she was over-joyed, her 7 children now adults had been searching for him. A reunion took place, they shared a common interest in folk music, an all night party. [Next morning the party arrived in the middle of a church service

I was conducting, just to say thank you by singing a few folk songs to a slightly bewildered congregation. KCGJ He has since built a close bond with half brothers and sisters, has a job, and is a much better adjusted person.

1982 Case 12 Beatson DCJ Wellington FC 1/7/1982 *Counsel R. Crotty* (Unreported) Granted. Applicants adoptive parents of 14 year old girl. The girl had developed difficulties re self-identity formation. The family had a very open approach to adoption. They had been promised at the adoption that in if difficulties arose they could make contact. They could also obtain updated information on the birth parents. When the girl was experiencing difficulty, they returned for help but the inability to obtain any updated information was taken as a social work rejection. The girl became increasingly upset and troubled by fantasies trying to come to terms with her unknown origins. A court inspection order eventually led to contact with the birth mother. The birth mother, a Hungarian, agreed to a meeting, the girl seems to have resolved the self-identity crises. There was little further contact. The adoptee came to terms with the truth of her origins and discarded her fantasies. As at 1994 she has strong sense of self-identity, working in Cosmopolitan London.

1983 Case 13 Bremner DCJ Wellington FC 4/2/1983 (Unreported) Granted. Applicant a 57 year old married woman, adoptee. Her adoptive parents died, she only became aware she was adopted after their deaths. This created considerable upset. Relatives who knew of her adoption but withheld the secret compounded the stress. The special grounds were personal stress and self-identity crises. The birth mother could not be traced, it's likely she left New Zealand within 2 years after the adoptees birth. The birth father was named, but died some years ago, and never married. The applicant has since located a close relative of the birth father. A strong family link has been built up through mutual interests with other relatives. This has resolved the self-identity crises and relieved tension and depression. A sense of well-being returned to her life.

Records needed for court evidence

1983 Inglis DCJ QC. Wellington FC. (Reported) *Re an Application by Tarita*. 18/3/1983. Application by a birth mother to have an adoption order discharged. A prerequisite to making such application is she obtain approval of the Attorney-General as per Adoption Act 1955 s20(3). She applied for the approval enclosing a draft affidavit of the case she would present in Court if allowed to proceed. The Solicitor-General responding on behalf of the Attorney-General that the Adoption Act 1955 s20(3) 'plainly intended to make the initial decision more than a mere formality'. More information was requested, including, date of the adoption order and details of the social worker report. As such information normally requires a Court Inspection order per Adoption Act s23(2)(c) on a 'special ground' the natural mother lodged an application for inspection. The Judge declined her access to the adoption file, he found she had no 'special ground', but the Attor-

ney-General did have a 'special ground'. "Accordingly I order the relevant adoption records be open to inspection by the Attorney-General, and also by the Solicitor-General for the purpose of advising the Attorney-General. Such records are however not to be made available to any other person, including the natural mother and her solicitor, except by leave of the Court.' 2FLN 92 (2d) N136 // *Re an application by MTT*. (1983) 9NZRL 326. Note: The case raises two issues- (a) A decisive judgment could be made on the basis of evidence unavailable to the applicant or her solicitor, with no opportunity to examine, challenge or test the evidence. (b) Was the birth mother's using the application primarily to gain access to court records?

1983 Case 14. Pethig DCJ Wellington FC 29/3/1983 *Counsel G Rosenberg* (Unreported) Granted. Applicant a 42 year old married woman, adoptee. Adoptive father had died, and the relationship with the adoptive mother was difficult. The special grounds were a continuing self-identity crises dating back to early teens. She was not told of her adoption until she was 13. A series of unfortunate happening complicated her interpersonal relationships- the applicant tried to suppress what had happened in the past but it was now creating unbearable pressures close to a nervous breakdown. The birth mother was located and information exchanged. The applicant reports that she now feels a new sense of belonging, coming to terms with her adoption status, and working it through and much less tension in her self. It appears to be the case of a series of traumatic adoption related happenings being buried for many years and then coming to the boil later in life.

1983 Case 15. Pethig DCJ Wellington FC 10/5/1983 *Counsel Miss Ormrod* (Unreported) Granted. Applicant a 24 year old single woman. Experienced traumatic telling of her adoption, followed by other traumatic experiences. For some years has suffered depression, along with violent and suicidal tendency. The special grounds were that the adoption trauma was an important aspect of her continuing illness, backed by specialist evidence. Unfortunately all efforts to obtain background material or the identity of her birth mother failed. Maybe a false name on the adoption file. The applicant while disappointed at lack of information, is getting on top of the situation, she feels that at last the professionals are being open and honest with her, instead of playing games of deception and secrecy. The new openness and honesty of others has given her a new openness and honesty with herself.

1983 Case 16 Dunedin FC ?/7/1983 *Counsel McDonald* Granted. (Unreported) Applicant a 27 year old woman. Both adoptive parents have died, the father when the applicant was 8 years old. She was given very conflicting stories about her adoption. Inability to sustain close relationships. Special grounds, medical and self-identity related crises. Specialist evidence given.

1983 Case. 17 Inglis DCJ QC Wellington FC (Reported) 19/8/1983 *Re an application by P.* Counsel D Hartshorn. Granted. The adoptee applicant had located both her birth parents. Her birth mother requested she no longer communicate with her. The applicant agreed, and now applied to examine her original birth entry due to her interest in genealogy.

Held Special grounds for making an order existed, the inspection would do no more than verify what she already knew. Bearing in mind the applicants undertaking to her mother the discretion to grant an order should be exercised in her favour. The learned judge gave detailed consideration to the meaning of 'on any other special ground' s23(2)(c) Adoption Act 1955. He took the view that disclosure on special grounds must be for compelling reasons, in the interests of justice, which make it necessary to investigate the facts surrounding the adoption. He rejected it's application to psychological need of the adoptee being regarded as a 'special ground'. 'I cannot avoid the conclusion that Parliament's intention was to create a situation where the new parent-child relationship was to be accepted by all without question or further inquiry in the knowledge that the circumstances surrounding the adoption should not, in general be disclosed, and that the previous natural relationship was to be treated as irrelevant and buried*.' 2FLN144 N211 // *In the matter of an application by P* (1984) 10NZRL 139. *Note. In the year of this judgment, 1983, 75% of the adoption orders were to non-strangers, neither irrelevant or buried.

1984 Inglis DCJ QC Wellington FC 3/7/1984 (Reported) *In re M* Refused. Applicant sought inspection to relieve her psychological problems regarding her self-identity. Although the psychological case was proved, the application was refused as lacking 'special grounds.' Judge Inglis applied the principles he had adopted in *Re and Application by P* [1983] FLN (2nd) // (1984) 10NZRL 384.

1984 Inglis DCJ QC Wellington FC 3/7/1984 (Reported) *In re W* Granted. The adoptee applicant believed he was a beneficiary in his grandfather's estate. He was supported by a letter from the estate lawyers seeking verification of the relationship. Held the Court can allow inspection for this purposes. The adoptee was refused inspection, but an order was granted to the executors, administrators and trustees' of the estate. (1984) 10NZRL 384

Defining Court adoption records

1884 Hillyer J Auckland HC. 21/8/84 (Reported) *D v Hall* A birth mother sought access to her solicitors files. The Judge commented on the Court adoption records, "It is clear that the records referred to in Sec.23 include the adoptions register and the minutes on the file. Having regard to the clear purpose of the section, I am of the view also that adoption records, although not defined in the Act, would include all the papers filed in Court and on the Court file...I do not obtain from the regulations any assistance in determining whether the words "adoption records" in s 23 include records other than those held in Court. It would

however, I think, be straining the meaning of words to hold that they mean documents other than those on the Court file. The section, in my view, is designed to prevent any person obtaining information by searching Court records on matters which the legislature has decided should not be available except in the circumstances set out in the proviso to s23(1). The distinction made between inspection of an adoption order by an executor for the purpose of the administration of an estate and inspection of adoption records by the Registrar of Marriages for the purpose of investigating forbidden degrees of relationship, only illustrates the restricted purposes for which the Court records may be inspected." ... "I do not consider that the section is designed to deal with private papers which, I think, are subject to the ordinary rights of property applying to an chattel owned by an individual, I conclude therefore, that s23 does not apply to papers held by a solicitor either on his own behalf or on behalf of his client..."

Held "Adoption records" include all the papers filed in Court and on the Court file but do not include private papers. Therefore, s 23 of the Adoption Act did not apply to papers held by a solicitor either on his own behalf or on behalf of his client." *D v Hall* [1984] 1NZLR 727 // *Re Adoption of D's Child*. 1FRNZ 345 // *Re A* (1984) 3NZFLR 52

More than curiosity

1984 Bisphan DCJ Christchurch FC 12/10/1984 (Reported) *Director-General of Social Welfare v B* "However, it is now recognised that the blood tie becomes more important at a much later stage in the child's development, when knowledge of origins becomes a matter of substance to the child and I accept goes beyond mere satisfaction of curiosity." (1984) 3NZFLR 367 at 374. Note: Gilliland SM in 1976 referred to an adoptees application for inspection of their adoption record 'as satisfying the applicants natural curiosity.' *Re and Application by B* 14MCD 198 at 200

1985 Case 18 Pethig DCJ Wellington FC 21/1/1985 *Counsel J Allen* (Unreported) Granted. Applicant a 17 year old male adoptee. Suffered from severe self-identity issues, lack of concentration, behavioural problems and uncertainty and anxiety. Contact made, including links with grandparents and another adopted relative. The grandparents played a major role in the applicant regaining stability and overcome the self-identity issues.

1987 Case 19 Carruthers DCJ Wellington FC 14/12/1987 (Unreported) Granted. Applicants, adoptive parents of 15 year old girl. She had difficulty accepting her adoption from the age of 7. As a teenager she has severe self-identity conflicts. She identified with skin-heads and became involved with sex and drugs. Inspection order granted. Birth mother contacted, now married with family. In earlier life she had manifested similar instability to the adoptee. Birth mother and daughter have a fluctuating and sometimes stormy relationship, but helpful to the understanding of all concerned. The adoptee is now more reconciled but remains in a life style quite different from her adoptive family.

1992 von Dadelszen DCJ Palmerston North FC. 6/5/1992 (Reported) *In re M* Granted. Applicant a 49 year old adoptee, conceived after a brief extramarital relationship by her birth mother while her husband was serving overseas in World War 11. Born 1943. The applicant has found her birth mother died in 1983. Her original birth certificate incorrectly showed her natural father to be the husband of her natural mother. Since the adoption was arranged privately no records were held by the Department of Social Welfare. (s9 Adult Adoption Information Act 1985 not applicable). Thus the only source of information containing the identity of M's natural father was the Family Court file held by the Department of Justice. The applicant now sought an inspection order on 'special ground' to access her adoption records.

Held, allowing application. The applicant here is disadvantaged because the Department of Social Welfare file does not contain any relevant information on her adoption. The fact that the circumstances here deny the applicant the ability to apply effectively under s9 Adult Adoption Information Act 1985 is sufficient to establish the existence of a 'special ground' in terms of s23(3)(b)(iii) Adoption Act 1955."

Obiter, "The narrow interpretation of 'special ground' adopted by earlier cases may have become unsupportable in light of the change in the social climate in 1992, the enactment of the Adult Adoption Information Act 1985, and the current experience of the Family Court in the commonality of open adoptions." 9FRNZ 63

1993 Inglis DCJ QC Hastings FC *Application to inspect adoption records* 22 December 1993

Adoption - Application for inspection of adoption records - Applicant sought to inspect records relating to the supposed adoption of a person she believed to be her brother - Whether grounds existed to support release of information - Adoption Act 1955, s 23(3)(b)(iii); Adult Adoption Information Act 1985, ss 3, 11.

The applicant had been adopted in 1964. She sought to inspect records relating to an adoption in 1960 of a person she believed may have been her full or half-brother. A veto on the inspection of birth records had been placed by the applicant's birth mother. The grounds relied on were a desire by the applicant to develop a relationship with her brother and a desire to know whether medical problems affecting her children had resulted from heredity.

Held (declining the application)

(1) A desire to find her brother was insufficient in itself to amount to a "special" ground in terms of s 23(3)(b)(iii) of the Adoption Act 1955.

(2) As a procedure for the exchange of medical information had been expressly provided for by s 11 of the Adult Adoption Information Act 1985, the desire to obtain the same information in a different way as a "specialground" in terms of the Adoption Act could not be justified.

Application This was an application under the Adoption Act 1955 to inspect adoption records.

JUDGE B D INGLIS QC. This is an unusual application under the Adoptiot Act 1955, s 23(3)(b)(iii), for inspection of adoption records. It is unusua because the applicant does not ask, to inspect the adoption records relating to her own adoption in 1964, but rather the records relating to the suppose(adoption in 1960 of a person whom she believes may have been her full or half-brother. Section 23(3)(b)(iii) provides:

...(3) Adoption records shall not be available for production or open to inspection except—
(b) on the order of a Family Court ... made - (iii) on any other special ground.

The grounds in subparas (i) and (ii) have no application here. The clear policy of the section is that the confidentiality of adoption records is to be preserved unless there is a pressing and special reason for allowing inspection. It appears that the applicant's natural mother has placed a veto on the inspection of birth records, presumably under the Adult Adoption Information Act 1985, s 3.

The applicant advances two grounds which she hopes might persuade the Court to allow the information she wishes to obtain to be released to an intermediary. The first is:

My brother does not know that I exist and I do not think the veto should have any bearing on whether or not siblings are allowed to develop a relationship. It is ourright to know of each other's whereabouts, and decide what to do from there.

That ground for inspection is understandable, but of course the interests of the other- parties have to be considered, including the implications any identification of the supposed brother may have for him, whether or not he turns out to be related to the applicant. I do not think this ground in itself can be sufficient as a "special" ground in terms of the section.

The second ground is more substantial and is based on medical problems affecting the applicant's children. She is anxious to know whether there is any basis for believing that any of these problems may result from heredity. However this is a matter that is dealt with expressly by the 1985 Act in s 11 which provides a clearly defined and confidential procedure for an exchange of medical information. Because this procedure is expressly provided for, I do lnot consider that the Court could be justified in treating the desire to obtain the same information in a different way as a "special ground" in terms of the 1955 Act.

Good research work on the part of the staff in two Court Registries has revealed an adoption file which could possibly be the one to which the applicant was referring, but in the nature of things it cannot be known from the file documents alone that the person adopted is the person the applicant has in mind. The contents of that file are privileged and confidential and even if the adopted person were prepared to permit inspection of the file for the applicant's purposes, that could not in itself amount to a "special ground" justifying the Court in authorising her to do so.

For the reasons given the application must be declined.

That will be a disappointment for the applicant, but she will understand that unless and until Parliament changes the law the Court cannot depart from what the statutes provide. The medical concerns can, however, be addressed by her own doctor in terms of the 1985 Act, but the doctor may not pass on any information disclosed to him. [1994] NZFLR 297.

Note re above case The applicant advanced the ground “My brother does not know that I exist and I do not think the veto should have any bearing on whether or not siblings are allowed to develop a relationship. It is our right to know of each other’s whereabouts and decide what to do from there.” Under existing legislation there is no provision for adoptee birth sibling contact, other than arguing a case on ‘special grounds’. A judge has considerable discretion within the constraints of this law. It is also becoming evident that the continued guillotining of adoptee birth sibling information or contact, is contrary to UN Conventions we have ratified and discriminatory on grounds of adoptee ‘status’. These matters need to be addressed by Parliament, but in the meantime in exercising discretion, the court must now take full cognisance of any Convention we have ratified. cf *Tavita v Minister of Immigration* Court of Appeal, Wellington 17/12/1993 [1994] 2NZLR 257

About half the adult adoptees in New Zealand have now applied for their identifying birth information. Therefore there is a 50% chance that the birth sibling has applied under the Adult Adoption Information Act and encountered the veto, and the same frustration as the applicant. If an application under s11* on medical grounds succeeds, then it is almost certain that the birth mother or sibling would have to be approached to obtain the information; it is rare for the relevant medical information to be on adoption records. From my experience, when this happens, in spite of a veto, the birth parent or sibling requests direct contact with the applicant. KCG

Access by aunt of deceased birth mother

1996 Ellis DCJ Napier FC *Adoption of S Declined* The applicant J, sought an order for inspection of adoption records under s23(3)(b)(iii) of the Adoption Act 1955. The child S was born in 1968 and adopted out from birth. The birthmother tragically died only a few years after the adoption. The birthmother’s sister J was concerned that S have the opportunity to know her birth parent’s family as part of her inheritance. But for s16(2)(c) of the Adoption Act, J would have been S’s Aunt. J’s application was supported by the other members of the birth family. The special ground argued by J for obtaining inspection of the records were that she was unable to use the Adult Adoption Information Act 1985 [Act has no provision for access by relatives], and that the birth parent of the adopted person was dead. Court inquiry indicated that there was no veto placed by the adoptee or birth mother, and S knew of her adoption.

Held (refusing application) “(1) From the context of the Adoption Act 1955 there was a general rule that adoption records should be kept secret: that the exceptions to that rule were to be strictly limited: that the discretion of the

Courts was not unfettered; and that the general policy of the Act to preserve the anonymity and confidentiality of the various persons affected by adoptions should not be lightly eroded. (2) ‘Special’ circumstances must be more than the ‘individual’ circumstances of the ‘particular’ circumstances of a given case. To be ‘special’ there must be some factor or combination of factors, which takes the particular case outside the usual range for cases of that type. (3) J was neither the adopted person nor the natural parent and while her motives were sincere, it was inappropriate for the Court to impute to S the desire for, or need of, personal information which she herself had not requested.

Obiter (1) The Privacy Act 1993 underscores and gives focus to the narrow approach taken by the Courts in the past to applications for inspection and disclosure under s23. (2) Since the application, one of J’s parents had become terminally ill. In the circumstances the Social Worker was authorised to approach the adoptive parents to advise them of the request for contact and the current situation of the applicant’s family and of the availability to S of family information. The Social Worker was to ascertain the views of the adoptive parents as to whether S would be receptive to any direct approach by the Social Worker.”

Privacy Act 1993 “Since inspection of adoption records would involve a disclosure of personal information, reference must be made to the Privacy Act 1993. Among the Privacy Principles established by s 6 Principle 11 provides ... (a to f)...None of these exceptions could be said to apply in respect of information about S’s birth and adoption. There has been no argument in this case as to the applicability of Privacy Act principles in respect of adoption records but I have taken the view that Principle 11 is directly relevant and that there is nothing in the Adoption Act 1955 or the Adult Adoption Information Act 1985 which derogates from the strict limitations on disclosure of such personal information. To the contrary the privacy principles underscore and give focus to the narrow approach taken by the Courts in the past to applications for inspection and disclosure under s 23” at 560. [1996] NZFLR 552-561 // 14FRNZ 166-174

Case Comment

The judgment follows the more conservative interpretation of ‘any other special grounds’. I have set out a case for a more liberal interpretation on p334. However, there is no definitive definition of the phrase, it is a matter for the Judge’s discretion. Decisions will consequently vary according to full facts of each individual case.

— **Contacting with adult adoptees’** Having made many contacts with adoptees, birth parents and some relatives under Adoption Act s23 on behalf of the Court I am surprised that the approach was made to the adoptive parents rather than the 26 year old adult adoptee. I believe that any approach concerning an adopted child under the age of 20 should be made to the adoptive parents, but any approach to an adult adoptee should always be direct unless there is some very special circumstance. Adult adoptees have the right to be treated as adults and not as children of the adoptive parents.

— **Adoption Act 1955 s 23 reconfirmed?** The report states: “It is worth noting that s23 as a whole was repealed and substituted in its current form by s15 of the Adult Adoption Information Act 1985, so although the Adoption Act is now 40 years old this provision for the limited inspection of records was *revised and reconfirmed* at the time of the 1985 Act and supposedly in the light of then current social policy on access to genealogical information” at 556

There is some misunderstanding. The Adult Adoption Information Act 1985 was an Act in its own right and not an Amendment to the Adoption Act 1955. The amendment to the Adoption Act 1955 s23 was consequential. The terms of reference of the select committee, parliamentary debate and Ministerial statements made it very clear that the Adoption Act 1955 was *not up for review* or debate, that would be another process at another time. Submissions and debate must be confined to the Adult Adoption Information Bill, and for that reason it was *not* moved as an Amendment to the Adoption Act 1955. This was a political decision, done quite deliberately to thwart any wider debate of the Adoption Act 1955.

— **Privacy Act** While a strong case can be made for an adoptees right to know the truth concerning themselves, it is more complex with an application by a relative. The issue of the application of the Privacy Act 1993 needs to be fully argued. I am aware of a substantive case lodged with the Waitangi Tribunal, that would for Maori, on cultural grounds, allow access of right by relatives.

Relatives and sibling access to information

In most cases applicants using the Adoption Act s23(3)(b) (iii) are adoptees, adoptive parents, birth parents, or social workers applying on their behalf. With the greatly increased openness in adoption there has resulted in renewed calls for provision for access to information by siblings or other relatives in adoption. At present there is no provision for sibling or relative contact under the Adult Adoption Information Act 1985. There has been strong support to amend the Adult Adoption Information Act 1985 to make provision for sibling or relative contacts. An amendment to that effect was introduced to Parliament in 1993 by Graham Thorne a National MP, an adoptee. He introduced a Private Member's, Adult Adoption Information Amendment Bill. The Bill received good support in the House and was referred to the Social Service Committee. Submissions were called for, but the Committee never reported back to the House, thus the Bill never re-appeared on the order paper. The Bill remained in Committee's limbo for three years. Grahame Thorne lost his seat at the November 1993 Election. The Bill was not included in the carryover motion at the dissolution of Parliament in August 1996 and lapsed. *see* pp375-376.

Because there is no provision under the Adult Adoption Information Act 1985, applicants apply to the Family Court under the Adoption Act 1955 s23. Some cases have been successful but most Judges have taken a very conservative approach in exercising their discretion.

Relatives' access to information NSW

Law Reform Commission Report 1992- 8.34. “Consistently with the intention of the Willis Committee, the Act [NSW Adoption Information Act 1990] limits rights to identifying information to the adopted person and the birth parents during the lives of the parties; it will be a matter for them whether they share the information with other members of their families.

8.35 This policy has caused apparent frustration in some cases, especially siblings. The Registry has commented that: ‘Currently there is no provision for non-adopted siblings to have access to information on adopted siblings. The Registry has had many requests from people seeking information on adopted siblings particularly from children of a relinquishing mother who are aware of the existence of an adopted brother or sister, but because the birth mother is not interested in contact they can not proceed any further. The adopted person also may not be interested in contact with their natural mother but would possibly be interested in contact with a full brother or sister if they knew such a person existed.

8.36 As the Registry also points out, there is a striking contrast here with the rights of *adopted* persons, who can usually obtain identifying information about their birth siblings, because this is included in the prescribed information about their birth siblings, because this is included in the prescribed information to which they are entitled.

8.37 In the Commission's view, this is a difficult issue. Expanding the class of birth relatives who have information rights exposes members of the adoptive family to further contacts, which in some cases will be unwelcome. The present law establishes primary rights to the identifying information for birth parents and adopted persons, and it may be too early to recommend a significant expansion of the categories of persons having information rights. At present, the community is adjusting to the situation created by granting of information rights to birth parents, a recent development for which many people are unprepared. It may well be that such expansion is appropriate at some future time, but the Commission does not recommend it at this stage. Birth siblings who cannot persuade their parents to exercise their information rights under the Act may take some comfort from the fact that they will be found if the adopted person searches for them, and they may leave messages for their birth sibling on the proposed Adoption Information Exchange.” *New South Wales Review of the Adoption Information Act 1990. Law Reform Commission Report No 69. April 1994 pp257-258*

New Zealand is much further down the track than Australia, we have another 5 years experience and I we should be seriously addressing the issue of access to adoption information by siblings and relatives.

Reappraisal of access to adoption records

Back in 1982 following in depth research on the subject I published a book on the subject *Adoption Court Records- Adoption Act 1955 s23- Construction- Cases- Practice'* ISBN 0-9597626-0-4. This material has now been updated and included in this book. I believe the following points should be taken into account in the interpretation and discretion re Adoption Act s23(3)(b)(iii).

1 In the ten years since the Adult Adoption Information Act 1985 has been in operation, over 20,000 adult adoptees have applied for, paid for, and received their identifying birth information. Over half the adult adoptees' in stranger adoptions in New Zealand have now applied for and received the truth of their origins. There have been over 15,000 reunions with birth parents or siblings. There have been massive social changes re adoption in the 40 years since the Adoption Act 1955 was enacted. Where discretion is allowed it should take into account present realities.

In some earlier cases on Magistrates stressed the importance of testing the validity 'special grounds', by reference to the other grounds listed in s23. However, since 1985 the addition of clause s23(3)(a), by the Adult Adoption Information Act requires a reassessment of this argument. 1992 von Dadelszen DCJ Palmerston North FC. 6/5/1992 *In re M Obiter*, "The narrow interpretation of 'special ground' adopted by earlier cases may have become unsupportable in light of the change in the social climate in 1992, the enactment of the Adult Adoption Information Act 1985, and the current experience of the Family Court in the commonality of open adoptions." 9FRNZ 63.

When over 20,000 adult adoptees have used their discretion re clause (3)(a) the Adoption Act 1955 s23 to access their original birth record, it must have an effect on the interpretation and discretion exercised under s23.

2 Most reported cases take a more conservative approach, this can give a distorted image of results. I am aware of about 50 applications to the Court under the Adoption Act s23(3)(b)(iii), about 40 have been successful.

3 It was never the intention of s23 to block adoptee access to the truth of their origins, but it has been used to that effect. *see* pp332-333. Likewise it is often been claimed that the Adoption Act 1955 states that all adoptions should be closed and sealed and this is the reason for adoption secrecy. There is in fact neither provision nor prohibition of open adoption under the 1955 Act and many thousands of open adoptions have eventuated under the Act. Almost 90 percent of all new adoptions in New Zealand are open, semi-open or the birth mother and adoptive parents have met and exchanged the identifying birth information.

Inspection of Adoption Records - Declined

1999 Callaghan J Gore DC RE M T [inspection of adoption records] 18FRNZ 635-640 // A application by T [2000] NZFLR 241-246 An application under s 23 Adoption Act 1955 for the inspection of adoption records. 16 September; 9 December 1999 (MFP3/99)

Adoption - Access to adoption records - Whether adoption made due to misrepresentation - Whether adoption invalid as one party under age - Applicant claimed abuse by adoptive father - Records sought for reinstatement of birth father's name on birth certificate - Whether "special grounds" existed - Matters of suitability canvassed at time of adoption - Threshold test for inspection of records where grounds relate to suitability of adoptive parents - Adoption Act 1955, ss 4, 11, 20(3), 23(3).

'Me applicant, M T, a 29-year-old woman, had discovered that the father named on her birth certificate, L H, was not her birth father, who had died in 1970 when she was a baby. Further inquiries revealed that her birth mother had remarried L H in 1976 and that her birth mother and L H had adopted her in 1977 by an order made in the Gore Magistrate's Court. M T now contended that the adoption was made as a result of misrepresentation. She wished to have the adoption order discharged and her birth father's name reinstated on the certificate. She sought to have the adoption records produced for her inspection in order to obtain the Attorney-General's approval. M T claimed that, contrary to s 4(1)(a) Adoption Act 1955, L H was under 25 years of age at the time of the adoption. She also alleged that L H had abused her and her half-siblings and that she was still receiving counselling to help her cope with the effects of the abuse.

Held, declining the applicant's request:

(1) As the application was made jointly by L H and by M T's birth mother, the situation was specifically covered by s 4(1)(c) Adoption Act, despite L H's age at the time of adoption. Because of L H's age, the Magistrate had called for a social worker's report when the adoption was considered. The Magistrate had considered the report before the formal hearing and it was reasonable to infer that it was also a factor taken into account at the hearing. (p 638, line 2; p 639, line 16)

(2) On the facts, M T already knew a considerable amount about her situation, including the fact that her half-sister S was adopted at the same time and that L H had a criminal record, which was mentioned in the social worker's report. (p 639, line 6)

Re an Application by P 19/8/83, Judge Inglis QC, FC Wellington MFP 11/83 distinguished

(3) Permission to inspect adoption records requires serious consideration. Such approval is not to be lightly given. Where the grounds relate to the suitability of one or both of the original applicants, the appellant must reach a threshold, at the least, of a strong prima facie case for disclosure. (p 639, line 39)

(4) M T's allegations against L H were very general in nature and nothing in the adoption file supported her allegations of abuse. Evidence of abuse against M T's siblings may be relevant in the context of corroborating her allegations but could not be read in lieu of a proper foundation for her application. While M T might be able to provide specifics of her allegations, these were not before the Court. Accordingly no "special grounds" enabling M T to inspect her adoption records were made out. (p 639, line 45) at 635-636 FRNZ

[[Held (declining the request for inspection)

(1) There was no question of invalidity on the age issue, because even though LH was 19 at the time. The fact that the other applicant was the mother of MT saved the application pursuant to s 4(1)(c) of the Adoption Act 1955.

(2) An application for permission to inspect the records had to reach a threshold, at the least, of a strong prima facie case as to why there should be disclosure of the

records. The allegations made by MT were general in their nature and did not provide a sufficient evidential basis regarding the allegations of abuse. at 241 [2000] NZFLR]]

RE M T 18FRNZ 635-640 //

Same case as *A application by T* [2000] NZFLR 241-246

Access to Adoption Record - Adjudged

2001 Mather J Wairoa FC *Re H* (*Inspection of adoption record*) An application for access to adoption records.

2 April 2001 A 2/01. [2001] NZFLR 625-631

Adoption - Inspection of adoption records - Information concerning natural parents - Privacy considerations - Limited scope - Special grounds - Desire to know more about family background does not constitute a special ground - Grandson's health issues would constitute a special ground - Section 23 order would not provide access to Court maintenance records - Identifying information - Information relevant to medical or genetic history of a patient - Social worker authorised to search records - Doctor forbidden from disclosing identifying information - Adoption Act 1955, s 23; Adult Adoption Information Act 1985, ss 9, 11; Births, Deaths, and Marriages Registration Act 1995, S 76; Destitute Persons Act 1910; State Sector Act 1988; Children, Young Persons, and Their Families Act 1989.

The applicant was born in 1934. Her birth certificate recorded only her mother's details. After her birth, an order had been made pursuant to the Destitute Persons Act 1910 requiring her birth father to pay maintenance. He had paid maintenance until she turned 15. In 1948, her mother married. The applicant was adopted by her mother's husband in 1953. The applicant knew the name of her birth father, but had been unable to find him.

In 1998, the applicant's grandson was diagnosed with a rare genetic inoperable germinoma brain tumour, and in 1999, the applicant found her brother, who had been adopted out by her mother. As a result of these two incidents, the applicant revived a dormant hobby of genealogy, and became anxious to complete the picture by obtaining details relating to her birth father and his family. She was particularly interested in discovering whether there was a genetic connection to her grandson's illness. The applicant sought to access the records relating to her adoption under S 23 of the Adoption Act 1955. The details were held by the Registrar of Births Deaths and Marriages in Lower Hutt. However, the Registrar was unable to provide the applicant with the information without a Court order. The applicant also believed that the Wairoa District Court held records relating to the maintenance order, which could also be released. The issue was whether the Court should make an order providing access to the applicant's adoption records, and the records held by the Wairoa District Court.

Held (adjourning the application to enable the applicant to apply under ss 9 and 11 of the Adult Adoption Information Act 1985)

(1) Information concerning natural parents can be obtained under s23 of the Adoption Act 1955. While there has

clearly been a change towards more open access to adoption records, this has been tempered by privacy considerations and the limited scope of s23. The applicant's wish to complete her knowledge of her family background would not constitute a special ground. However, her grandson's health issue would be a more persuasive reason for granting access to the adoption records. While any order made under s 23 would include access to lie records under the Births, Deaths, and Marriages Registration Act, it would not provide access to the maintenance records held by the Wairoa Court.

(2) (Obiter) Information concerning natural parents can also be obtained under ss 9 and 11 of the Adult Information Act 1985. Section 9 enables a person to apply to the chief executive of the Department of Child, Youth and Family Services for identifying information relating to that person's birth parents. Identifying information means the person's name or address, and includes information that is likely to enable any other person to ascertain the person's name or address. Section 11 enables a doctor to apply to the chief executive of the Department of Child, Youth and Family Services for any information whatsoever (not being identifying information) that is relevant to the medical or genetic history of a patient. Such an application would enable a social worker to search the records held by the Wairoa Court. However, s 11 (6) forbids the doctor from disclosing any identifying information provided to him or her in this way. at 625-626

The Adoption Act 1955 s23—

The provision in s 23 which the applicant relies upon is subs (3) which provides:

(3) Adoption records shall not be available for production or open for inspection except—

(a) ...

(b) On the order of a Family Court, a District Court, or the High Court made—

(iii) on any other special ground.

The special grounds advanced by Mrs H under s 23 are:

(a) In November 1998 her 10-year-old grandson was diagnosed with a rare genetic inoperable germinoma brain tumour, as a result of which he underwent five months of chemotherapy and five weeks of radiotherapy. He remains under ongoing supervision and treatment.

(b) Her search of birth records for a N (N) C from 1900 to 1920 has been to no avail.

(c) The Registrar of Births Deaths and Marriages in Lower Hutt has the correct Christian name of the man she believes to be her father, but cannot provide any information to her to locate her siblings or their offspring to follow up a possible genetic connection without a Court order.

(d) The Wairoa District Court may have records relating to maintenance which could be released.

Mrs H has already gone to some effort to trace family members. In July 1999 she located a brother BH born on 11 November 1935. A copy of his birth certificate like her own shows MLH as his mother and no details are provided in relation to his father. Mrs H and other members of her family had been completely unaware of BH's existence, but have been thrilled to meet him and his family. As a result of meeting her brother and concerns over her grandson's medical condition, Mrs H has revived

a dormant hobby of genealogy. She is anxious to complete the picture by obtaining details relating to her birth father and his family, including her other siblings ie; her father's two children, who would now be in their sixties, and their issue. Mrs H's mother died on 17 September 1990, as evidenced by a copy of the death notice in the Hawke's Bay Herald Tribune filed with this application.

In addition to an order under s 23 of the Adoption Act 1955, information concerning natural parents can also be obtained under the Adult Adoption Information Act 1985.

Adult Adoption Information Act 1985.

Section 9 of that Act provides as follows:

9. Access by adult adopted persons to identifying information -

(1) Any adult adopted person may make a written application to the chief executive for identifying information relating to either or both of that person's birth parents.

(2) Every application under subsection (1) of this section shall be accompanied by an original birth certificate relating to the applicant.

(3) The chief executive shall disclose to an applicant under subsection (1) of this section all available identifying information relating to any birth parent concerned, and inform that person of the effect of section 10 of this Act, if, and only if -

(a) Details of that parent appear in the original birth certificate; or (b) The chief executive is satisfied that that parent is dead.

(4) Where -

(a) The chief executive is required by subsection (3) of this section to disclose to an applicant under subsection (1) of this section identifying information relating to a birth parent; and

(b) The chief executive does not know the name and address of that parent; and

(c) In the opinion of the chief executive, it is probable that a social worker can ascertain identifying information relating to that parent without undue effort, - The chief executive shall cause a social worker to attempt to do so., and subsection (3) of this section shall apply to all identifying information obtained as a result.

The "chief executive" is defined as meaning the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989.

Mrs H can apply to the chief executive of the (now) Department of Child, Youth and Family Services for identifying information relating to her birth father. "Identifying information" is defined in the Act, in relation to any person, as meaning that person's name or address, and it includes any information that is likely to enable any other person to ascertain that person's name or address. No other information can be provided to the applicant in this way.

Only the second alternative in s9 (3) applies in this case. If preliminary inquiries establish that Mrs H's father is dead then inquiries can proceed. There is no evidence that Mrs H has applied to the chief executive under s9.

The extent of the inquiries a social worker (defined by the Act as a social worker employed under Part V of the State Sector Act 1988 in the department responsible for the administration of the Children, Young Persons, and Their Families Act 1989), is expected or authorised to carry out is not spelt out Presumably any information on

those departmental files would be "available" to the chief executive, and perhaps details on other government department files. So far as the records under the Births, Deaths, and Marriages Registration Act 1995 are concerned, they may not be accessible. Section 76 of that Act provides for disclosure where s 11 of the Adult Adoption Information Act applies, but not s 9. Where an order is made under s23 of the Adoption Act, on the basis of special grounds, that includes access to the records under the Births, Deaths, and Marriages Registration Act: see s 76(4) of that Act. Such an order would not, in itself, provide access to the maintenance records held by the Wairoa Court, to which Mrs H refers.

It is unclear whether "all available identifying information" relating to Mrs H's father, including that which might be available following inquiry by a social worker "without undue effort", would yield anything of use or interest to Mrs H. Although she can only be provided with her (late) father's full name, and last address, this may enable her to make contact with his other children or grandchildren, and hence explore the medical issue in question. If she made such an application but failed in that way to progress her inquiries relating to her grandson's medical problems and any family background bearing on that, other options would have to be considered.

That brings me to s 11 of the Adult Adoption Information Act 1985. at 628-629

Adult Adoption Act 1985 s11 [Medical Access]

provides as follows :

s11. Access to information on medical grounds -

(1) For the purposes of this section, - "Doctor" means a registered medical practitioner: "Medical" includes psychiatric: "Relative", in relation to any other person, means a person who is by blood the grandparent, parent, child, grandchild, or (whether of the whole or half blood) brother, sister, or cousin, of that other person: "Unknown relative", in relation to any person, means a relative whose name and address are unknown to that person by virtue of the confidentiality attendant upon the adoption of that person, that relative, or some other person who is a relative of them both.

(2) A doctor who is -

(a) Responsible for the medical treatment and advice of any patient; and (b) Satisfied that it is necessary or desirable, for the purpose of providing treatment of or advice relating to any medical condition of that patient, or for the purpose of providing genetic counselling for or in relation to that patient, to obtain information about the medical or genetic history of an unknown relative, - may give the chief executive notice in writing to that effect specifying the information concerned.

(3) Where, in the opinion of any doctor, any information obtained as a result of that doctor's dealing with any patient is likely to be relevant to the provision of treatment of or advice relating to any medical condition or potential medical condition of any unknown relative, or the provision of genetic counselling for or in relation to any unknown relative, that doctor may with the consent of that patient (or, where that patient is not an adult, of that patient's guardian) give the chief executive notice in writing to that effect, together with a separate statement of that information.

(4) A social worker may produce a notice under subsection (2) or subsection (3) of this section

(a) To the Registrar-General; and in that case, notwithstanding section 63 of the Births, Deaths and Marriages Registration Act

1995, the social worker shall be entitled to obtain an original birth certificate of the adopted person concerned:

(b) To the Registrar of the Court where the Court file relating to the adoption concerned is held; and in that case the social worker shall be entitled to search, inspect, and take a copy of any document on the file concerned.

(5) A social worker may disclose to the doctor concerned (in the case of a notice under subsection (2) of this section) or the doctor of any unknown relative (in the case of a notice under subsection (3) of this section) any information whatsoever (not being identifying information) relevant to the medical or genetic history of the patient or relative concerned.

(6) No doctor shall disclose to any person any identifying information obtained by the use of information obtained under this section

Mrs H's application is not supported by any evidence from the doctor treating her grandson, to the effect that the treatment of that patient or of any unknown relative or genetic counselling for either, would be assisted by obtaining medical or genetic history relating to Mrs H's father. If such evidence were provided, which met the requirements of either s 11(2) or s 11(3), a notice could, in the discretion of a social worker, be sent under subss 4(b) to the Registrar of the Wairoa Court where the adoption order was apparently made, entitling the social worker to "search, inspect, and take a copy of any document on the file concerned". The social worker can then (again in his or her discretion) disclose to a doctor information relevant to the medical or genetic history of the patient concerned.

In the event that no such medical or genetic history were contained on the adoption file, nothing to assist the doctor would be forthcoming as a result of this procedure. Under s 11(6) the doctor is forbidden from disclosing any identifying information provided to him to her in this way. Accordingly no follow-up inquiries could be made by the doctor or the family, which might provide details of any genetic condition not immediately apparent from the adoption file. All of this is speculative unless and until an application is made under s11.

This case is not dissimilar to that reported as *Application to inspect adoption records* [1994] NZFLR 297. There an adult woman applied under s 23 of the Adoption Act to inspect records relating to an adoption in 1960 of a person she believed might have been her full brother or half brother. The grounds relied on were her desire to develop a relationship with her brother and to know whether medical problems affecting her children had resulted from heredity. The first ground was not considered to constitute a special ground under s 23(3)(b)(iii). The application in respect of the medical ground was declined on the basis that there was an express procedure for the exchange of medical information under s 11 of the Adult Adoption Information Act 1985, and the desire to obtain the same information under the Adoption Act 1955 could not be justified as a special ground". What constitutes a "special ground" under s 23(3)(b)(iii) justifying a Court order opening adoption records for inspection, has been the subject of a number of decisions in this Court. In particular I have considered *Re Adoption of M* (1992) 9 FRNZ 63, *Application to inspect adoption records (supra)*, *An*

Application by T (2000) NZFLR 241 and *Re Adoption of S* [1 996] NZFLR 552.

I have found the judgment of Judge Ellis in *Re Adoption of S* particularly helpful. While there has clearly been a change towards more open access to adoption records, exemplified by the enactment in 1985 of the Adult Adoption Information Act, this is tempered by privacy considerations and the limited scope of s 23 of the Adoption Act. In this case Mrs H's wish to complete her knowledge of her family background, while entirely reasonable and justifiable, would not in my view and on the basis of previous decided cases constitute a special ground. However the health issue which she has raised relating to her grandson is a different and more persuasive reason for granting access to the adoption records.

I am aware that the application to the Court is made by the grandmother of the boy whose medical condition has caused concern, rather than a parent or guardian. Section 23 of the Adoption Act when read as a whole is wide enough to allow for access to adoption records to be sought by any person provided they can meet one of the stipulated criteria: see *Application to inspect adoption records and Re Adoption of S (supra)*.

Here, of course, it is the applicant's own adoption records to which she seeks access, rather than those of someone else. Mrs H is the logical person to apply given that it is in the first instance primarily her concern to know the details of her father. I infer from her affidavit that her concerns for the health of her grandson are shared by the boy's parents.

Because specific procedures are available under the Adult Adoption Information Act 1985 which may well satisfy Mrs H's concerns, I consider this application should, in the first instance, be adjourned so that she can make an application under either or both ss 9 and 11 of that Act. If proceeding in that way does not assist Mrs H, I would reconsider her application under s 23 of the Adoption Act.

This application is accordingly adjourned to a Registrar's list in four months. If these other inquiries are unfruitful, and the applicant wishes to pursue this application, she should file a further affidavit. As well as outline the steps she has taken, that affidavit should also set out the views of her grandson's parents, and any other details which fill out the wider family picture.

To preserve the anonymity of those involved, any report of this case is to refer to them by initials only.

Re H (Inspection of adoption record) [2001 NZFLR 625-631

Access adoption records re adopted out sister Refused

2001 Fraser J Palmerston North FC *RE VA [inspection of adoption records]* An application under s 23(2)(b)(iii) Adoption Act 1955 to have the Court records of adoption opened and made available for inspection.1 August 2001 (ADPT26/51)

Adoption - Access to adoption records - Application to have Court records opened and available for inspection - Applicant sought to make contact with her natural sister -

Whether special grounds existed - Need for closure and completion of family - Medical concerns - Adoption Act 1955, s 23(3)(b)(iii); Adult Adoption Information Act 1985, s 11(3), (4), (5).

The applicant, LS, sought to have the Court records of adoption opened and made available for inspection. She wished to make contact with VA, her sister by birth who was adopted out in Palmerston North in 1951. The natural mother had died in 1980 and the father was unable to speak due to a stroke. LS argued that there were special grounds for granting her application under s 23(3)(b)(iii). She was unable to obtain the required information from any of her family and the Adult Adoption Information Act 1985 was of no assistance as it contains no provision for siblings. LS argued that there were health issues of which VA ought to be made aware including high blood pressure, thyroid problems, 'Cancer, and diabetes, all of which were hereditary. VA was the last to be contacted out of 18 children and LS stated that her life would not be complete until she had located her sister. LS sought to bring a sense of closure and belonging to VA.

Held, refusing the application to inspect:

(1) Special circumstances must be more than the individual circumstances of a given case. To be special there must be some factor or combination of factors which takes the particular case outside the usual range for that type. (p 95, line 25) *Re Adoption of S* (1996) 14 FRNZ 166; [1996] NZFLR 552 applied

(2) The grounds set out by L S as special could be compressed into two. First, L S required the information in order to provide a sense of closure and completion for herself with respect to her wider natural family. Secondly, the information was sought to assist her sister to have an understanding of potentially hereditary medical difficulties. (p 95, line 39)

(3) L S's wish to know her sister and to provide a sense of closure was not sufficient to constitute special grounds in terms of s 23(3)(b)(iii). (p 95, line 45)

(4) A more appropriate means of dealing with L S's medical concerns existed under s 11(3), (4) and (5) Adult Adoption Information Act 1985. These provisions set out a clear procedure for access to and provision for information on medical grounds. L S's doctor should contact the chief executive of Child, Youth and Family in terms of s 11(3). This would trigger subss (4) and (5), thereby allowing a social worker to obtain V A's birth certificate and to pass on to the doctor any information that was relevant to the medical or genetic history of either V A or Ms L S. There were no special grounds in terms of the Adoption Act 1955. (p 96, line 15)

RE VA [inspection of adoption records] 21FRNZ 93-97

Access to court adoption records Sec 23c - is not available for private, civil litigation purposes

Negligence claim by adoptee and birth mother- 1997 RHTKT*CA Attorney-General v Prince. *Richardson P, Henry, Thomas, Keith and Tipping JJ 10,11/9/1997, 25/11/

1997 CA192/96 [1988] NZFLR 145-176. An appeal and cross-appeal from a decision of the High Court.

Adoption Act 1955 s23(c) "Finally, the secrecy provisions do not envisage the disclosure of what would be essential information in determining negligence suits. Section 23 provides a narrow exception to the general unavailability for production or inspection of adoption records. The exception is that the Court may make an order: (a) for the purposes of a prosecution for making a false statement; or (b) in the event of any question as to the validity or effect of an interim order or an adoption order; or (c) "on any other special ground". Statutory powers must be exercised in accordance with the policy and purpose of the legislation. Given the statutory emphasis on confidentiality and secrecy of adoptions and the special grounds designated in (a) and (b), it would seem impossible to justify making an order under (c) to support private, civil litigation, necessarily undermining the adoption."

Richardson J *AG v Prince* 16 FRNZ 258-289 at 273

ACCESS TO ADOPTION INFORMATION

Trapski's Family Law- Brookers—

Introduction and historical

K.1. *Trapski's Family Law* Vol. 5. 'Adoption' —Over the last 2 decades there have been urgent and passionate pleas from many quarters to open up the adoption process and lift the veil of secrecy. It is argued that adopted children should be able to trace their birth parents, birth parents should be able to discover where their children are living and how they are faring, and adoptive parents should have access to information so they can answer questions their child may ask about his or her background and parentage. See: J Triseliotis, *In Search of Origins: The Experiences of Adopted People*, London, Routledge and Kegan Paul, 1973; M K Benet, *The Politics of Adoption*, New York, Free Press, 1976; J Shawyer, *Death by Adoption*, Auckland, Cicada Press, 1979; and H D Kirk, *Shared Fate: A Theory and Method of Adoptive Relationships*, Port Angeles, Ben Simon Publications, 1984. For an encyclopaedic reference work on this topic see K Griffith, *The Right to Know Who You Are: Reform of Adoption Law with Honesty, Openness and Integrity*, Ottawa, K W Kimbell, 1991.

Research by John Triseliotis in *In Search of Origins: The Experiences of Adopted People* suggested that a search for birth parents by an adopted person is often precipitated by a crisis in adolescence or early adulthood, such as the death of, or rebellion against, an adoptive parent, childbearing, or the breakdown of a marriage or close personal relationship. Of the adopted people who successfully traced a birth parent, few established a lasting relationship, but most found that the contact made it easier to come to terms with their adoption.

In New Zealand in 1979, Joss Shawyer (*Death by Adoption*) published a firsthand account of the pain and anguish felt by birth mothers who had bowed to societal pressures and allowed their babies to be given in adop-

tion. See A Corcoran, "Adult Adoption Information Act" (1986) FLB vol 1/5 71. At about the same time, Jigsaw, an adoption support group founded in 1976, pressed for changes in the law.

Jonathan Hunt MP introduced three private member's Bills into Parliament to amend the law and allow greater access to information. Although each of these Bills failed, successive attempts resulted in a widening of the scope of the proposed legislation and improvements in drafting. The Adult Adoption Information Bill was reintroduced by Fran Wilde MP and this time passed easily. The major provisions came into force on 1 September 1986.

The Adult Adoption Information Act 1985 gives birth parents as well as adult adopted persons a method of establishing contact: s8. Adoptees are entitled to the name, address, and occupation of any birth parent shown on the birth register, unless that birth parent has imposed a veto. The Department of Child, Youth and Family Services may assist birth parents to approach any adopted child who has reached adulthood: s 10.

Where the adoption took place before the 1985 Act, birth parents and adult adoptees can veto access to information from the birth register: s3. The veto lasts 10 years but can be renewed or removed at any time: s 3(4) and (5).

The 1985 Act was designed to achieve a balance between the rights of all three members of the adoption triangle. This is an area fraught with emotion and there are moving accounts of reunions between birth parents and their adopted children. It is also true that some birth parents feel apprehensive at the thought of the child they gave in adoption decades before arriving unexpectedly on their doorstep. They may argue that they agreed to adoption with the understanding that there would be a final severance of contact with the child, and that a later change in the law allowing adopted persons to trace and make contact with their birth parents amounts to a breach of faith. There never has been, and never could be, any legal guarantee of secrecy to birth parents, but the veto provisions in the 1985 Act are a recognition of these concerns.

Information about the new provisions and the right to impose a veto was disseminated widely through a publicity campaign and explanatory leaflets.

Counselling for the adoptee is highlighted in the new provisions and is mandatory where someone adopted before 1 March 1986 seeks his or her original birth certificate: s 5(2)(a)(ii). Counselling for the adoptee is optional where someone was adopted after 28 February 1986 or where a no contact veto is in place: ss 6(a) and 7(2).

Access to information is given to members of the adoption triangle and outsiders with professional interests. The Adult Adoption Information Act does not confer rights on other members of the adoptee's family of origin nor does it grant the adoptee access to information about other members of their family of origin. To obtain this information it is necessary to look to other statutory powers such as those in Official Information Act 1982 (see K.22) or the Privacy Act 1993 (see K.23).

In its review of adoption law, the Law Commission was

asked to look at access to adoption information, including access by persons who are not members of the adoption triangle. In its discussion paper, *Adoption: Options for Reform*, NZLC PP38, October 1999, the Law Commission asks whether it is still necessary or appropriate for birth certificates to be altered following an adoption order as they are at present. It raises for discussion the possibility that adoption might be more appropriately reflected by a certificate of legal parenthood rather than by an altered birth certificate: paras 419, 425. It also asks for comment on whether there should be any age restriction on access to an original birth certificate, whether (and subject to what conditions) other family members should have a right to adoption information, and whether information vetoes should be abolished.

The Law Commission points out that the Assisted Human Reproduction Bill 1998 proposes that children aged 18 years or over who are born as a result of assisted reproduction should have much greater access to information about donors than adult adoptees.

Source of adoption information

K.2 Adoption information may be held in several places. These are discussed below.

The original birth entry

K.2.01. This is held by the Registrar of Births and Deaths and is the information supplied by the birth parents when the child's birth was registered: see K.3 (birth register) and K.5. (access to information).

The Court adoption file

K.2.02. This should contain the name and address of the birth parents, the name and address of their solicitor, the affidavit of the adoptive parents giving details of their circumstances, and a copy of the social worker's report on the adoption: S 23 Adoption Act as amended by s 15 Adult Adoption Information Act 1985; see K-19 (applications to inspect Court records).

Files- Department of Child, Youth and Family Services

K.2.03 If the Department of Child, Youth and Family Services (formerly Department of Social Welfare) arranged or reported on the adoption, it will have files which may contain information about the birth parents, the adoptee, and the adoptive parents. The department has been willing to assist inquirers and give non-identifying information, and there is now a statutory power to assist in approaching a birth parent or adoptee: s 10 Adult Adoption Information Act 1985.

Records of specialist adoption-link agencies

K.2.04 Some Specialist agencies have a register of people seeking to establish contact with other members of their adoption triangle, for example: Jigsaw Inc, PO Box 38-681, Howick, Auckland (ph 09-533 9191); Adoption Support Link Inc, PO Box 4164, Auckland (ph 09-424 1035); Aotearoa Birth Mothers Support Group, PO Box 5479, Wellesley St, Auckland (ph 09-366 0752); and Adoption Support Network, 21 Hinau St, Linden, Tawa, Wellington (ph 04-232 0611).

Legislation in Victoria, Australia, has set up an official Adoption Information Register to facilitate information exchange and contact: ss101-104 Adoption Act 1984 (Vic). See Annexure A10 for contact information for overseas adoption agencies.

Solicitors' records

K.2.05 Solicitors who act for adoptive parents or for birth parents on an adoption may have relevant information in their records. They are bound by an ethical and legal duty to protect their client's confidentiality and will not release information to a non-client without their client's permission. They may also be bound by a duty not to disclose confidential adoption information to their client: *Re A* (1984) 3 NZFLR 52; Solicitors have no legal responsibility to hold files of adoption cases for any particular period of time, and practice varies.

Hospital, medical, and social work records

K.2.06 There may be information in the records about the medical practitioner who attended the birth, about a mother and baby home or social work agency, or about the hospital where the child was born.

Ombudsmen and Official Information Act

K.2.07 The Ombudsmen can assist a person seeking adoption information. If the Registrar- General fails to provide the information to which an adult adoptee is entitled under s 4(1) Adult Information Adoption Act 1985, or if the Director-General fails to disclose available identifying information to an adult adoptee or a birth parent under s 9(1) or s 8(1), a complaint can be made to an Ombudsman. An adoptee can request disclosure of personal information from the Department of Social Welfare, a public hospital, or any other State agency, and there is no age restriction limiting access to such information: s 24(1) Official Information Act 1982. But the personal information available to an adoptee under the age of 20 years under that Act would not include identifying information because it is clear that access to such information is restricted to adult adoptees: ss 4(1), 9(1).

Privacy Commissioner

K.2.08 The Privacy Act 1993 provides a means by which adoptees, birth parents, or adoptive parents can obtain any personal information held by a private sector or public sector agency. Where an agency holds personal information about an individual, and this information can be readily retrieved, the individual concerned can obtain confirmation from the agency as to whether it holds that information and can have access to it: information privacy principle 6, s 6 Privacy Act 1993. The Act contains a number of restrictions justifying refusal of disclosure of information, but the statutory basis of any refusal must be given to the individuals see K.23. If the individual is unhappy at the refusal, he or she can make a complaint to the Privacy Commissioner.

The Privacy Commissioner deals with complaints arising from requests from birth parents about children given in adoption and requests from adopted children about their birth parents.

Court records in relation to divorce or family pro-

ceedings

K.2.09 There may be relevant evidence contained in Court records relating to divorce or Family Court proceedings. Access to such information will depend on the specific statutory provisions relating to third party access to the information on the Court files.

In *A v Registrar, Whangarei Registry of the High Court* (2000) 19 FRNZ 255, a woman had unsuccessfully applied to the Registrar for information from the file relating to divorce proceedings between her mother M and her mother's first husband, FH. The applicant was anxious to establish who her father was. The birth certificate did not contain her father's name or details and she had been placed in a mother and baby home at an early age. She hoped that the High Court file might contain dates when M and FH ceased living together. Rule 66(9) High Court Rules allows the Registrar to grant to any person leave to search, inspect, or copy any file if the person seeking inspection has a "genuine or proper interest". Referring to the provisions of the Adult Adoption Information Act 1985, which sets out the rights to information available to adult adopted persons, Nicholson J concluded that the applicant's desire to determine whether FH was her father was both a genuine and proper interest. While noting that Court documents were excluded from the requirements of the Privacy Act 1993, Nicholson J adopted its general principle that the applicant should have access to personal information about herself unless this would involve the "unwarranted disclosure of the affairs of another person or of a deceased person": S 29(1)(a) Privacy Act 1993. On the facts, his Honour concluded that giving the applicant access to the information was not an unwarranted disclosure of the affairs of FH or of M who, if alive, would have been 90 and 85 years of age respectively.

Adoptee's original birth certificate

K.3 Under New Zealand law every birth must be reported to the Registrar of Births and Deaths by the hospital, doctor, or midwife present at the birth, or the occupier of the premises where the birth occurred, within 5 working days after the birth: s 4 Births, Deaths, and Marriages Registration Act 1995. The child's guardians must notify the Registrar of the birth as soon as reasonably practicable after the birth s9 Births, Deaths, and Marriages Registration Act 1995. The information which must be supplied on notification of the birth is prescribed by regulation: s 11(1) Births, Deaths, and Marriages Registration Act 1995. After the making of an adoption order, s 23 Births, Deaths, and Marriages Registration Act 1995 requires the Family Court to forthwith inform the Registrar- General of.

- (a) The names of the adopted person immediately before the making of the order;
- (b) The names conferred on the adoptee by the order;
- (c) The names of the adoptee's parents immediately before the making of the order;
- (d) Whether the adoptive parent(s) want the words "adoptive parent(s)" to appear on the birth certificate;
- (e) The date of the order and the name of the Court; and

(f) Any other information, prescribed by regulation.

On receiving this information, the Registrar-General shall include it in the birth register: s 24(1) Births, Deaths and Marriages Registration Act 1995.

The notation “adoptive parent(s)” will appear on any birth certificate if the adoptee has:

(a) Not attained the age of 18 or married before that age and the adoptive parent(s) so request, and the adoptee, if aged 16 or over, has given his or her consent to the inclusion of the notation;

(b) Attained the age of 18 or has married, and so requests: s 24(3) Births, Deaths, and Marriages Registration Act 1995;

If an adoptive parent or an adoptee (who is 18 years or older or has married) so requests, the Registrar-General may include additional information relating to the child’s birth on any birth certificate that is issued: s 24(3)(b). This power is subject only to an overriding power for the Registrar-General to refuse to record information where there are reasonable grounds to believe it is incorrect: s 82.

Unless a request is made the child’s birth certificate will record only the name or names conferred on the child by the adoption order and the full names and details of the adoptive parents. There will be nothing on the certificate to indicate that the child is adopted: s 63(2). However, on attaining the age of 20 years the adoptee may obtain a copy of his or her original birth certificate under s 11(4) Adult Adoption Information Act 1985: see K.5.

The Registrar-General can release relevant information if satisfied that the particulars recorded in the original birth certificate are material for the purpose for which a copy is required, and that to supply those particulars would not contravene the principles in s 23 Adoption Act 1955. Section 23(3) establishes a general principle that Court adoption records shall not be open to inspection except in limited circumstances such as:

(a) The administration of an estate or trust; (b) An inquiry relating to forbidden marriages; (c) A prosecution for making a false statement; and (d) Resolving questions as to the validity of an adoption order.

Section 23(3) also allows inspection where some other special ground can be demonstrated. Under s 21(9), if there is a dispute whether a person should be supplied with a copy of the original birth entry, the matter shall, on the applicant’s request, be referred to a District Court Judge for determination. The Judge’s decision is final.

In Application by NY [1994] NZFLR 959, an Australian woman sought genealogical information about her paternal grandmother. Her father, an adoptee, had died, but there was reason to believe that his birth mother was still alive. The daughter applied for a copy of her father’s original birth certificate. Judge Borrin adjourned the application and referred the papers to the adoption information section of the Department of Social Welfare with a request that they ascertain whether the birth grandmother would welcome an approach from the applicant.

Source *Trapski’s Family Law* Vol. 5. ‘Adoption’ pp375-378. K.1-K.3. (22/8/00)

ACCESS TO COURT RECORDS

Adoption records not open to inspection

Trapski K.19.01 Each District Court has an adoptions register in which are entered details of every application for adoption, and minutes of all orders made and decisions given. The Courts also retain the original adoption, files consisting of all documents filed in the Court in connection with the application.

“Adoption records” include not only the adoptions register and Judge’s minutes, but all papers filed in Court: *Re the Adoption of D’s Child* 21/8/84, Hillyer J, HC Auckland A390/81.

Useful information on what Court records are kept and where they are likely to be stored can be found in K C Griffith, *New Zealand Adoption: History and Practice - Social and Legal 1840-1996*, Wellington, 1997, pp 327-330.

In keeping with the regime of secrecy that characterises New Zealand adoption law (see A.8.02), Court adoption records are available for inspection only in strictly limited circumstances. These are now set out in s 23 Adoption Act 1955 as amended by s 15 Adult Adoption Information Act 1985.

Court adoption records shall only be produced or open to inspection where:

(a) A person needs to inspect an adoption order in connection with the administration of an estate or trust of which the person seeking to inspect is an executor, administrator, or trustee: s 23(1), K19.02;

(b) A Registrar of Marriages or marriage celebrant seeks to investigate whether a marriage falls within the forbidden degrees of relationship under Marriage Act 1955 (s 23(2)), and s 2 Marriage Amendment Act 1976, K19.03;

(c) Inspection is authorised by s 11(4) Adult Adoption Information Act 1985 which permits the release of information to a medical practitioner or psychiatrist where necessary or desirable for the treatment or advice to a patient: s 23(3)(a) and s 11 Adult Adoption Information Act 1985, K19.04;

(d) An order for production or inspection is made by the Family Court, a District Court, or the High Court:

(i) For the purpose of a prosecution for making a false statement: s 23(3)(b)(i);

(ii) In the event of any question as to the validity or effect of any interim

order or adoption order: s 23(3)(b)(ii) Adoption Act 1955;

(iii) On any other special ground: s 23(3)(b)(iii) Adoption Act 1955; K20.

In its report *Adoption and its Alternatives: A Different Approach and a New Framework*, Report 65, September 2000, at paras 477 to 482, the Law Commission proposed that when an adoption order was made the adopted person would be provided with two birth certificates: a post-

adoption birth certificate showing the adoptive parents as the parents and a full birth certificate giving all details of the person's birth and subsequent adoption: paras 477-482. If this recommendation were implemented there would be fewer situations in which the Court would be asked to rule on applications to inspect Court records.

K.19.02 Administration of estate or trust

A birth parent may make provision for his or her child despite the making of an adoption order. The executor or trustee may need access to the adoption records to give effect to the provisions of the will or trust. There are other situations in which access to Court records might be sought.

In Application to inspect adoption records [1994] NZFLR 297, allowed inspection by the executors, administrators, and trustees of an estate where the applicant believed he might be a beneficiary in the estate of his deceased grandfather.

K.19.03 Inspection by Registrar of Marriages or marriage celebrant

The regime of secrecy that is part of closed adoption creates a risk that a person may unknowingly marry someone who is within the prohibited degrees of relationship as set out in the Second Schedule to the Marriage Act 1955. In New Zealand it is possible for a person to marry at the age of 16 with the consent of a parent or guardian: s 17 Marriage Act 1955, but an adopted person cannot obtain a copy of his or her original birth certificate until the age of 20: s 4(1) Adoption Act 1955. An adoption order does not permit marriages with members of one's birth family where those marriages would otherwise be within the prohibited degrees of relationship: proviso to s 16(2) Adoption Act 1955, G.23.

The statutory exception to the prohibition on inspection of Court adoption records allows the Registrar of Marriages or a marriage celebrant to inspect adoption records for the purpose of investigating prohibited degrees of relationship under the Marriage Act 1955: s 23(2).'

No Court order is required.

K.19.04 Inspection by doctor on medical grounds

Section 23(3)(a) Adoption Act 1955 allows inspection of adoption records by a registered medical practitioner (including a psychiatrist) where the doctor is responsible for the medical treatment and advice of any patient and is satisfied that inspection is necessary or desirable for the treatment or advice relating to any medical condition of the patient. Inspection is also permitted where necessary for the genetic counselling of a patient or to obtain information about the medical or genetic history of an unknown relative of the patient.

The doctor seeking such information must give the chief executive of the Department of Child, Youth and Family Services notice in writing specifying the information concerned: s 23(3)(a) Adoption Act 1955 and s 11(2) Adult Adoption Information Act 1985.

The written notice requesting information may be given by a departmental social worker who may pass the information on to the doctor concerned: s 11(4) and (5) Adult

Adoption Information Act 1985.

No doctor shall disclose to any person any identifying information obtained: s 11(6).

A Court order is not required: the Court Registrar can act on notice from a departmental social worker and must allow the social worker to search, inspect, or take a copy of any document on the Court file: s 11(4)(b) Adult Adoption Information Act 1985.

K19.05 Other Court records

There may be other Court records that might assist an adopted person in tracing a birth parent. *In Re H (inspection of adoption records)* [2001] NZFLR 625, the applicant sought access to District Court maintenance records relating to her father, whose name and personal details she knew but whom she had been unable to trace. She had a grandson who suffered from a rare genetic condition and was anxious to establish whether this condition could be traced to her father and his family. The father had paid maintenance for the applicant until she reached the age of 15 years under a court order. While the Family Court had no power to order access to these records, Judge Mather suggested that she approach the doctor treating her grandson and encourage them to approach Child, Youth and Family Services under s 11(3) Adult Adoption Information Act 1985. He indicated that, if such an approach were made, a Social Worker would be able to search the District Court maintenance records. However it is questionable whether s 11(4)(b) authorises a Social Worker to inspect maintenance records (as opposed to adoption records) held by a Court.

K.19.06 Inspection by a social worker

A social worker employed by the Child, Youth and Family Service is now able to inspect adoption records for the purpose of providing the Court with a report where an application has been made under s P(3)(b)(iii) claiming a special ground (see K20 below). Due to an amendment which came into force on 15 November 2000 a Court may require a social worker to prepare a report on an application under s 23(3)(b)(iii) Adoption Act. For the purpose of preparing that report a social worker may "consider any information obtained for that purpose, including information in the adoption records concerned and the application for the order": s 23(2A) and s 23A(1) Adoption Act 1955. The reference to "the application for the order" presumably refers to the application for an order under s 23(3)(b)(iii) and not the application for the original adoption order.

Section 23A(2)(b) states that the social worker may not consider information relating to any party to the adoption or application that was obtained by the Department before the application was made.

K.20 SPECIAL GROUND

K.20.01 Meaning of "special ground"

The meaning of the term "special ground" has been considered in a number of cases but most influential have been the judgment of Gilliland SM in *Re an Application by B* (1976) 14 MCD 198 and Judge Ellis in *Re Adoption of S* (1996) 14 FRNZ 166; [1996] NZFLR 552.

In *Re an Application by B* his Worship observed that: "The word 'special' is not really a term of art. The word imports particularity or peculiarity as distinct from generality. The 'special reasons' cases in Transport and Narcotics Legislation emphasise this. What is special depends on a set of facts and can be more easily recognised than defined."

He considered the interests not only of the birth mother applicant but also of the other birth parent, the adoptive parents, and the child and concluded that:

"Each may have a very strong claim for different reasons to the confidentiality of record that the statute affords. When this kind of application is made, notice cannot be given to all interested parties as in an ordinary case. Apart from the practical difficulties of ascertaining the present whereabouts of people after many years, such notice would destroy the very thing the statute seeks to protect. The Court must, then, protect the parties not before the Court and require the party seeking the order to establish entitlement strictly within the terms of the section and the policy of the statute generally."

In the more recent case of *Re Adoption of S* (above) the Family Court Judge referred to the meaning given to the term "special" under the Child Support Act 1991 and in particular to the High Court decision in *Re M (child support) (No 2)* (1992) 9 FRNZ 693; also reported as *Re M* [1993] NZFLR 74; (1993) 15 NZTC 10,015. "Special" had been variously defined as "not common to the ordinary run of cases": *Profitt v Police* [1957] NZLR 468, 470, "peculiar to the particular case which set(s) it apart from other cases": *In the marriage of Gyselman* (1992) FLC 92-279, and "something that does not arise in the ordinary case": *Rimene v R* 5/10/88, Eichelbaum J, HC Masterton M25/88. Judge Ellis also referred to a Court of Appeal decision under the Law Practitioners Act in which Woodhouse P had been considering the meaning of "special circumstances". The President in *Cortez Investments v Olphert & Collins* [1984] 2 NZLR 434, 437, remarked:

"In no way would it be wise to lay down principles or embark on definitions which could only fetter the discretion of the Court but simply as one way of looking at the test of special circumstances in the present statutory context I think it would be met where aspects of the facts seemed to indicate a problem which had relatively unusual features while reasonably deserving at the same time relief of the kind provided by the provision."

Summarising these various authorities Judge Ellis stated:

"What these lines of authority have established is that 'special' circumstances must be more than the 'individual' circumstances or the 'particular' circumstances of a given case. To be 'special' there must be some factor or combination of factors, which takes the particular case outside the usual range for cases of that type."

The interpretation of "special ground" in a particular case where the adoptee is under 18 years of age should take into account the rights of the child set out in the Convention on the Right of the Child including art 21 (welfare of child paramount in adoption), art 13 (child's right to receive information), art 9 (child's right to information about parents when separated), and art 16 (child's right to privacy).

K20.02 Personal circumstances of applicant

Can the personal circumstances of the applicant for inspection of Court records amount to a special ground? It would

seem an unreasonable fetter on the Court's jurisdiction if personal factors affecting the applicant could never constitute a special ground. Many of the cases in which the meaning of the word "special" has been considered have involved a consideration of penal or revenue collection statutes where the Courts necessarily have to be wary of granting exceptions to a general rule. It is suggested that such a strict interpretation is not justified in legislation relating to the adjustment of human relationships. While the interests of persons not before the Court do need to be protected this should not mean that the interests of the applicant must be ignored.

Several applications have been made by adopted persons or birth parents who are suffering psychological or emotional distress as a result of their adoption experiences or an identity crisis.

(1) Identity crisis

In *Re an Application by B* (1976) 14 MCD 198 (decided before the Adult Adoption Information Act 1985) a young woman wished to make contact with her birth parents. She sought to rely on the special ground that she was undergoing an identity crisis and it was important for her to establish whether her parents were Jewish. She had worked on a kibbutz in Israel, felt a strong affinity with the Jewish people, and her facial features appeared Jewish. The District Court Judge refused to make an order. In the course of his judgment he considered several provisions of the Adoption Act which preserve the anonymity and confidentiality of the parents, and concluded that the general policy of the Act was that such confidentiality should not be lightly eroded. He pointed out that there was no provision in s 23 for notice of the proceedings to be given to other interested parties or for counsel to be appointed to represent such parties, and that the Court must protect parties not before the Court.

(2) Emotional crisis

Since then, special grounds have been held to be established on several occasions. In one case a special ground relied upon was that the applicant, an adopted person, had lost both his adoptive parents when he was in his teens and there was psychiatric evidence that he was undergoing an emotional crisis: *Re Adoption* 27/3/80, Judge McAloon, DC Christchurch MDP46/79. Emotional anxiety arising from lack of a sense of identity or from genealogical bewilderment has been put forward as a special ground in several instances and is a recognised psychological problem. Several of these cases are noted in K Griffith, *Adoption Court Records: Adoption Act 1955 Section 23: Construction - Cases - Practice*, Wellington, 1982, pp 15-16A.

In later cases psychiatric evidence of an emotional crisis or anxiety as a result of genealogical bewilderment has been accepted as a special ground: *Re Adoption* 27/3/80, Judge McAloon, DC Christchurch MDP46/79 and see cases noted in K Griffiths, *Adoption Court Records: Adoption Act 1955 Section 23: Construction - Cases - Practice*, Wellington, 1982, pp 15-16A and in K C Griffith's *New Zealand Adoption: History and Practice - Social and Legal 1840.1996*, Wellington, 1997, pp 340-343. It is impossible to extract any clear principles or find any

consistency of approach when one reviews the many unreported decisions assiduously collected by Mr Griffith.

(3) Psychological comfort

In *Re an Application by P* (1984) FLN-144 (2d), Judge Inglis QC doubted whether such factors as the “psychological comfort” of the adopted person could be regarded as constituting special grounds. He considered more liberal disclosure of adoption information to be a social issue for Parliament to deal with. The Judge also dismissed the relevance of what he described as Pandora’s box arguments: the- possibly unwelcome consequences of opening the lid on a closed adoption. In his view “special ground” only describes a situation where disclosure is demanded by compelling reasons, in the interests of justice, which make it necessary to investigate the facts surrounding the adoption. Personal considerations might be relevant on the exercise of discretion, but in deciding if there was a “special ground” the Court was concerned with broader questions of policy in the context of the scheme of the Adoption Act. In his view, the policy of the Adoption Act is that the relationship with the birth parents is to be treated as “irrelevant and buried”.

In this case, the applicant had independently traced her natural mother. She was permitted to inspect her adoption file once in the presence of a Court officer, but not allowed to take notes. See also *Re M* 3/7/84, Judge Inglis QC, FC Wellington MFP 105/84.

(4) Curiosity not a special ground

Applicants seeking to establish a “special ground” face a “catch 22” situation. Their strongly held desire to obtain information about their own personal history and genealogy is not in itself a special ground because it is now considered normal for people to want to know about their antecedents and roots. Of course, at the time the secrecy provisions were introduced, adoption was perceived by many as effecting a clean break between the child and the birth family and it was thought to be unusual that anyone would want to seek out this information. To prove a special ground, applicants have to point to some element other than their own strong desire to obtain information which will justify revealing information they seek about their personal, family, and genealogical background.

(5) Other means to obtain information

Applicants seeking to establish a “special ground” face what is almost a “Catch 22” situation. Their strongly held desire to obtain information about their own personal history and genealogy is not in itself a special ground because it is now considered normal for people to want to know about their antecedents and roots. Of course, at the time the secrecy provisions were introduced it was thought to be unusual that anyone would want to seek out this information. To prove a special ground, applicants have to point to some element, other than their own strong desire to obtain information, which will justify revealing information about their personal, family, and genealogical background.

In recent times, when refusing to make an order authorising inspection, Judges have often made helpful suggestions about other means by which an applicant may achieve

the result they desire. In *Re H* (*inspection of adoption record*) [2001] NZFLR 625 Judge Mather suggested that the applicant explore the possibility of obtaining information under ss 9 and 11 Adult Adoption Information Act 1985. The applicant had concerns about a serious medical condition that afflicted her grandson and was seeking to trace her birth father, whose name, occupation, and personal details she already knew. In *Re VA* [*inspection of adoption records*] (2001) 21 FRNZ 93, in declining the application to inspect, Judge Fraser suggested that the applicant encourage her doctor to approach Child, Youth and Family Service with a view to passing medical information to her half-sister.

(6) Beneficiary of an estate

In *Application to Inspect Adoption Records* [1994] NZFLR 297, Judge Inglis QC allowed inspection by the executors, administrators, and trustees of an estate where the applicant believed he might be a beneficiary in the estate of his deceased grandfather.

(7) Access to others’ records

Judge Inglis QC also refused an application by a woman who did not wish to inspect records relating to her own adoption, but wanted access to adoption records of a person she believed to be her full- or half-brother.

K.20.03 Inspection sought by adult adoptee

The applicant in Re Adoption of M (1992) 9 FRNZ 63 had been adopted 49 years earlier. Her birth mother had died, but the applicant had been able to obtain her original birth certificate and to trace and have contact with her half-brothers and half-sisters. She wished to know the name and details of her birth father. Because her adoption was a private adoption, the Department of Social Welfare had no records of her birth father. The Judge found that the lack of relevant information on the department’s files and her inability to obtain information under s 9 Adult Adoption Information Act 1985 constituted a special ground.

In *Re Adoption of M* (1992) 9 FRNZ 63, Judge von Dadelszen questioned whether the narrow interpretation of “special ground” applied in earlier cases should be reviewed in light of changes in adoption policy. He referred to the change of attitudes since *Re an application by B* (1976) 14 MCD 198 and *Re an Application by P* (1984) FLN-144 (2d), and pointed to the changes brought about by the Adult Adoption Information Act 1985 and the increasing acceptance of open adoption. The Judge found he did not have to decide whether the narrower test still applied, and left for another occasion an argument in favour of interpreting “special ground” more liberally, based on a change in the social climate.

Re M T [*inspection of adoption records*] (1999) 18 FRNZ 635, also reported as *An application by T* (2000) NZFLR 241 was also an application by an adult adoptee. T’s biological father had died shortly after her birth and she had been adopted at age 7 years by her step-father. She only learned of the adoption when she obtained a copy of her birth certificate in order to enrol at university. She sought inspection because she believed the adoption order had been made as a result of misrepresentation and she wanted

to obtain leave from the Attorney-General to apply to have the adoption order discharged. She alleged that her adoptive father had physically, psychologically, and sexually abused her. Taking a narrower view of s 23(3)(b)(iii) Adult Adoption Information Act 1985, the Judge refused the application holding that the applicant had failed to establish a strong prima facie case why there should be disclosure of records. Before reaching a decision, his Honour inspected the adoption file, which was the course taken by Judge Inglis QC in *Re an Application by P* 19/8/83, Judge Inglis QC, FC Wellington MFP111/83.

K.20.04 Inspection sought by relinquishing parent

Birth parents can now use the Adult Adoption Information Act 1985 to obtain identifying information which will allow them to seek to initiate contact with the child they have given in adoption: s 8, see K11. But identifying information may not be available because of placement of a veto: ss 3, 7, see K4, K10, because the child has not reached the age of majority or because the Department of Social Welfare does not have on its files the information sought.

The decision in *Re Adoption of S* (1996) 14 FRNZ 166; [1996] NZFLR 522, following the earlier decision in *Re an Application by B* (1976) 14 MCD 198, suggests that it will be difficult for a birth parent to establish a special ground by relying on personal curiosity, a natural desire for a sense of identity or a need for psychological comfort. Nor is the Court likely to be receptive to arguments that the applicant is placed at a special disadvantage because of a gap in the statutory scheme created by the Adult Adoption Information Act 1985.

K20.05 Application by another relative

It is quite common for other relatives of an adopted person to seek information about the adopted person's birth parents and family. In some cases the adopted person has died and is no longer able to attempt to obtain this information.

In *Re adoption of S* (1995) 14 FRNZ 166; [1996] NZFLR 552, the child's birth mother had died and the applicant was a sister of the birth mother. Had the birth mother been alive, she would have been able to obtain identifying information under s 8 Adult Adoption Information Act 1985, as no veto had been placed on the birth records. Judge Ellis declined the application pointing out that applications by other relatives are rare and that the understandable wish of other members of a birth parent's family to make themselves available to the adopted child had not been found in any previous case to be a sufficient ground to breach the strict confidentiality of the adoption records to which they were not party. Distinguishing *Re Adoption of M* (1992) 9 FRNZ 63, his Honour made the point that access to information in the present case was blocked not by historical accident but by the fact that relatives had been excluded from the statutory scheme. In his judgment Judge Ellis referred to the privacy principles established under s 6 Privacy Act 1993 and in particular to principle 11, which in his view was directly relevant, and held that nothing in the Adoption Act 1955 or the Adult Adoption Information Act 1985 derogate from the strict limitation on disclosure

of personal information.

However, Judge Ellis authorised a departmental social worker to approach the adoptive parents to ascertain their views as to whether the adoptee would be likely to be receptive to an approach from the applicant and members of her family.

A woman wanted to establish contact with her sister (actually her half-sister) whom she believed to have been adopted at the age of 4 years. There had apparently been 18 siblings separated by adoption and the sister was the last to be traced. The applicant had concerns that important health information was not available to the untraced sister. The Judge refused to accept that there were special grounds but advised the applicant to arrange for her doctor to contact Child, Youth and Family Service under s 11(3) Adult Adoption Information Act 1985 so health information could be provided to the sister: *Re V A [inspection of adoption records]* (2001) 21 FRNZ 93.

Inspection of Court records was permitted (but not to the applicant) in *Re an Application by Tarita* (1983) FLN-92 (2d). A birth mother sought the leave of the Attorney-General under s 20(3) Adoption Act 1955 to commence proceedings for the discharge of an adoption order. The Attorney-General asked for further information and the mother applied to the Court for leave to inspect under s 23(2)(c). The Judge ordered that the file be made available for inspection by the Attorney-General.

K20.06 Application by Child, Youth and Family Services

Inspection has been allowed to the Department of Child, Youth and Family Services as sole legal guardian of the child of an adopted mother after the Court had dispensed with her consent to placement of the child for adoption. The department sought this information to enable it to implement its policy to place children with members of their own family or whanau wherever possible: *Re an Application by the DGSW* 5/12/94, FC Hastings FC020/57/94.

K20.07 Report from a social worker

The Court may require a social worker to prepare a report on an application for production or inspection of adoption records, which relies on the "other special ground" provision in s 23(3)(b)(iii) Adoption Act: s 23A(1) inserted by the Adoption Amendment Act 2000 from 15 November 2000. In preparing the report the social worker must not consider information relating to any party to the adoption or the application to inspect that was obtained by the Department before the application to inspect was made: s 23A(2)(b).

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp411-418. K.19.01-K.20.07. (21/11/03) Brooker's

APPLICATION TO INSPECT A COURT ADOPTION RECORD

The following procedure and notes refer to the making of an application for a Court order to inspect a Court adoption record under the Adoption Act 1955 section 23(3)(b) (iii) "On any other special ground." The following is a short simple guide for lay persons.

— Who may apply

Any person can make an application to inspect an adoption record. Thus any birth parent, adoptive parent, adoptee, social worker or any other person may apply. While anyone can apply, it needs to be pointed out that the Judge will require a very good reason before granting access to an adoption record. Courts are cautious about allowing any access to adoption records.

— What Court

"Family Court, a District Court, or a High Court." Adoption Act 1955 s23(3)(b). In practice, most applications are made to the Family Court. Its simpler, procedures are more flexible and appropriate, the Judges normally has special experience in adoption, and Court costs are minimal.

— Location

Normally apply to the nearest Court. Court's are listed under Justice Department in the phone book. You do not have to apply to the Court that holds the adoption record you wish to inspect. You may apply to any court, but must inform them of the name of the court where the adoption records are held.

— What Court holds the record

The adoption court records are held at the court where the adoption took place. The place of adoption, court and date is endorsed on the full copy of an adoptees new birth entry. This only appears on full copies not the abbreviated short form birth certificates. If the place of adoption is not endorsed write to the Registrar General, 191 High Street Lower Hutt and ask for the information, explain why you need it.

— Note

For adoptions made after 21st June 1962 the adoptive parents may request that no reference to adoption appear on copies issued of the adoptees new birth entry. Rules 1962/91 New Form No.1. Gazette 21/6/1962. However, the endorsement of Court's name and date where adoption took place is open to inspection on the adoptees current birth entry, by any person, at the Registrar-Generals office, or at the Court where the adoption took place. All Court records of adoptions made prior to 1/1/1916 are now held at the Registrar-Generals Office.

— How to apply

The applicant must file an affidavit with the Court. An affidavit is a legal term that simply means a declaration in writing made upon oath before a person authorised to administer oaths.

— Affidavit

It may be a simple written letter. However I recommend you produce a typed legal document. An example of an affidavit format is shown on the next page. Attach a

character reference and a copy of the adoptees full birth entry.

— Oath and witness

You must appear in person with the affidavit before a person authorised to take oaths. Who is authorised? Any Court Registrar or solicitor of the High Court of New Zealand. What happens? You are asked to make a solemn pronouncement to affirm the truth of what you have written in the affidavit. When you have affirmed the truth of the document you sign it, and the other person signs as a witness.

— Court filing

Take the affidavit to the Court and ask for the Registrar. The Registrar examines the document and if in order, accepts and files it. You will be asked if you simply want the application placed before a Judge for a decision, or do you wish to personally appear? I recommend applicants appear personally, the Judge can then ask questions and make a more informed decision.

— Cost of filing

As at 1995, if you do the task yourself, filing with a Family Court costs nothing. Filing with a District, or High Court will cost about \$100.

— Use a solicitor?

That is your choice. You can do the task yourself. Seeking legal advice can be helpful especially in complex cases. You are wise to check costs. I am aware that charges of up to \$2,500 have been made. In Family Courts, if you present a clear well documented case most Judges are very helpful to lay persons.

— Use of expert witnesses

Consider obtaining help of an expert person. A social worker experienced in adoption or a well informed member of an adoption support group. It is also wise to solicit their help when you are preparing your application. It can also be helpful if such a person attends the Court hearing with you. With the Judges permission such persons may give evidence.

— Setting date and time of hearing

If you request to appear before a Judge the Court Registrar will inform you of the date, time and place of hearing. If you choose not to appear, you will receive a brief written decision from the Court Registrar, notifying "Your application to inspect the adoption record has been placed before a Judge and an order for inspection...granted or declined."

— **Appearing before Judge** The hearing is conducted in chambers, that means in private. Normally only the Judge, secretary, applicant and perhaps an expert witness is present. The Judge welcomes the applicant, and to the hearing, and will have already read the affidavit. The Judge will probably ask questions to help clarify the issues involved. After consideration, the Judge may give an immediate oral decision, or a written decision at later.

Court Considerations access to records Applicant must establish a 'special ground'.

The first question the Judge is faced with is— “Is the ‘special ground’ raised by the applicant of sufficient importance to qualify in terms of the Adoption Act 1995, s23 (3)(b)(iii). The onus is on the applicant to prove to the satisfaction of the Judge that they have a ‘special ground’.

— Discretionary power

From both the construct of section 23 and the intention of those responsible for the legislation it is clear that the purpose and intent of Sec.23 (3)(b)(iii) is to give the Judge full discretionary power, as to who may, or may not have access to the Court adoption records ‘on any other special ground’. With this in mind there is little point in arguing fine points of law, for the power is a discretionary one. Even if the applicant proves they have a ‘special ground,’ and the Judge accepts there is a ‘special ground’, access to the adoption records is still at the Judges discretion- he “may” grant an order.

— Lack of guidelines

for interpretation and application of ‘any other special ground.’ A problem with such a wide term with no guidelines is that judgements will vary considerably. This aspect has been given careful consideration by legal authorities in

USA and Canada, that have similar legislation. At first sight it may appear that a set of guidelines contained either within the Statute or agreed to by the Courts would be a major help to all parties concerned. However after careful study in both Canada and USA they rejected the idea of specific guidelines. The last in-depth study was a Canadian report, they concluded, “Guidelines to direct the Court are not the answer. In fact, lack of express guidelines can be an advantage to a Court. Without guidelines, a judge is given, within the judicial framework, the discretionary leeway necessary in dealing in an area where no two sets of circumstances can be exactly the same. The provision of guidelines could create rigid limits in which the judge would have to operate.” Manitoba Law Reform Commission, ‘Working Paper on Confidentiality of Adoption Records’ 1978 p13.

It appears that those responsible for our New Zealand Legislation have taken a similar stance. Rather than have guidelines it is better to leave the matter to the wisdom and discretion of the Judge who is aware of the immediate and special circumstances of each particular case.

— Lack of guidelines

for interpretation of **special** circumstances. Court of Appeal “In no way would it be wise to lay down principles or embark on definitions which could only fetter the discretion of the Court but simply as one way of looking at the test of special circumstances in the present statutory context I think it would be met where aspects of the facts seemed to indicate a problem which had relatively unusual features while reasonably deserving at the same time of relief of the kind provided by the provision.” Woodhouse. Court of Appeal *Cortez Investments v Olphert and Collins* [1984] 2NZLR 434 at p437 examined words ‘special circumstances’ in context of the Law Practitioners Act 1982 Quoted with approval Ellis DCJ Napier FC *Re Adoption of S* [1996] NZFLR 552 at 556

Statistics on use of section 23c 1995-1996

	1995	1996	Total
Applicants under 20 years	28.	33	61
Applicants over 20 years	55.	32	87
Total	83	65	148
CYPS DSW involvement in applications-contact-mediation access to Court adoption records under s23(c)			

Special grounds that have been raised

— Medical grounds

The anonymity of the adoption procedure was devised before it was known that a great variety of medical risk factors are of genetic origin. In some cases a detailed knowledge of a persons heredity is a crucial factor in diagnosis and treatment of serious medical conditions. Genetic issues cannot be dismissed as general grounds, as each persons genetic make-up is specific and unique, fixed from conception.

— Psychological grounds

Mainly the inability of some adoptees to create a stable self-identity structure. Self identity is a major factor in personal development. The process normally takes place in teenage years. Failure to achieve a true sense of self-identity is a frequent cause or stressor for personal and social failure. Adoptees face a more difficult task with two sets of parents, their adoptive parents who supplied their nurturing, and their birth parents who supplied all their genetic structure. Having important aspects of their self-identity wrapped up in legal fiction and secrecy compounds their difficulties. Many adoptees find that if they are prohibited from knowing the truth of their genetic origins they remain forever rootless. Like a tree deprived of deep roots, they blow to and fro at the mercy of the winds. Some adoptees become blown away by the winds in society as rootless as a tumbleweed. Their stability is only attained as they secure some deep roots into the reality of their genetic being, and its origins. See my book, “The Right to Know who You Are” 1992 section 11, for in depth treatment. KCG.

— Depression of birth mother

is often caused by unresolved grief. Some birth mothers, who gave up a child in the past, and buried their grief find it resurfaces later in life. One of the main causes of depression is suppression of strong feelings. For some birth mothers it is only when the grief feelings are allowed to surface and be resolved that the depression is lifted. Many birthparents have found this is an important benefit of reunions.

— Teenage self-identity issues

Some adoptees become extremely antisocial, and help is sought from all available sources, often to no avail. The adoptive parents become desperate. This is sometimes due to the adoptee’s failure to attain a self-identity with the adoptive parents. In desperation the adoptee may reject the values of their adoptive family and seek identity with the opposite extreme. They may have traumatic or unrealistic fantasies of their birth parents. The answer to self-identity and fantasy is knowing the facts. Knowing the truth of their

APPLICATION TO THE COURT

SAMPLE AFFIDAVIT:

In the Family Court
 Held at
 In it's Domestic Jurisdiction.

IN THE MATTER of the Adoption Act 1955 Sec.23.

AND

IN THE MATTER of an application by

..... [full name]
 for an Order that an Adoption
 Record be open to inspection

I, [full name]. of [full address].
 ... [married/single]. [male/female], age Occupation

MAKE OATH AND SAY as follows:-

1. **THAT** I am the applicant of these proceedings.
2. **THAT** I was born at on or about the day of 19. .
3. **THAT** shortly after my birth I was adopted by [full names of adoptive parents]
 pursuant to the provisions of the Infant Act 1908/ Adoption Act 1955-
 [delete Act that does not apply]. at Court, Year 19 . . .

4. **THAT** my 'special grounds' pursuant of the Adoption Act 1955 Sec.23(3)(b)(iii) are:-

[The applicant must name the Special ground or grounds applicable to their case, and give justifying reasons to support the Application. General grounds are not sufficient. The 'grounds' must be 'special' and specific.]

5. **THAT** If the Court elects to make my adoption records open for inspection to an intermediary, I undertake not to initiate any contact with my birth parents except through the mediator appointed by the Court.

SWORN at Signed Applicant.

this day of 19

Before me:
 [Signature of the Court Registrar or a
 Solicitor of the High Court of NZ.]

*Attach character reference and a photo copy of
 of the adoptees current full birth entry*

origins has enabled many adoptees to get onto the road to recovery.

Practical Aspects Court Inspection Orders

What normally happens

in a case where a Judge grants an Order to inspect an adoption record? The Procedure is determined by the Judge, and may vary from cases to case. Thus, I can speak only my own experience with some 20 cases over the period 1978-1990, where I have appeared in support of the applicant as an expert witness, and often been appointed by the Judge as a mediator to contact the birth parents.

— **Issuing inspection order**

The Judge writes out an order and any conditions that may

be attached. Copies are given to the applicant, and a Mediator if appointed.

— **Unconditional inspection**

The Judge in some cases may attach no conditions to the order. In that case the applicant simply presents the inspection Order to the Court Registrar where the adoption records are held. The Registrar will then allow the applicant to inspect the adoption records of the person named in the Order.

— **Conditional inspection**

The Judge may grant an inspection order on the condition that a Mediator be appointed to carry out the task of

inspection and report back to the Judge, pending any further action.

— What's on the records

What you can expect to find a court adoption record file is described pp328-329. There is normally no up to date information, or medical history, or detailed background of birthparents. This normally means the adoptee has to contact a birth parent or birth relative, to obtain information. This is usually the birth mother as most records don't identify the birth father.

— Tracing birth mother

From the records you will have her name, age, occupation and may be her address at the time of consenting to your adoption. If she was single, and most birth mother of adoptees are, then she has probably since married. You now have her maiden name but she has probably since married and has a new surname. Often her address given is only the name of a town or city. Once you have obtained the birthmothers full name, you can then search public records.

— (a) Phone book

If the birth mothers name is an uncommon one, check the phone books especially in what may be the birth mothers home area. People will sometimes ring and ask people with same surname, "I am trying to make contact with a Miss ...who I understand may have been living in your area about 19...Have you heard of her, or any idea where she might now be?" It's surprising how effective this method is, about 50% success rate is achieved by persistent intelligent callers.

— (b) Birth mothers married name

how do I find it? Search for a Marriage entry. The Registrar General has copies of all marriage entries in New Zealand. Marriages are indexed under the brides maiden surname name, and the bridegrooms surname. Estimate the date period of likely marriage, and you search in three year increments. If the birth mother was 19 when you were born- and was then single, check years of age 19,20,21, if nil then try 22,23,24 etc. Obtain a full copy of the marriage entry, it has a lot of information. With a full current name, by searching phone books and Electoral rolls a search is usually successful.

Court Application under s23 of Adoption Act 1955

Adoption Information Manual CYPS DSW—

"S23 of the Adoption Act 1955 (amended in 1985 by the Adult Adoption Information Act) states in s3 that, Adoption records shall not be available for production or open to inspection except — (a) To the extent authorised by ss(1) or ss(2) of this section or by s11(4)(b) of the Adult Adoption Information Act 1985; or (b) On the order of a Family Court, a District Court, or the High Court, made—

(i) For the purposes of a prosecution for making a false statement; or (ii) In the event of any question as to the validity or effect of any interim order or adoption order; or (iii) On any other special ground. Any person can apply to the Court for the Court records to be open to their inspection

'on any special ground'. Applications can be made through the Registrar of the District Court in the area in which the applicant is living - rather than the Court in which the adoption order was made. This is in order that the applicant may be available to speak to his or her application if required. Circumstances vary from one Court to another. In some districts a fully prepared and witnessed affidavit is required, and in others a carefully worded letter is acceptable. Social workers will need to have ascertained the situation in their own areas. For all applications it is important that the fullest possible information on the adoption situation is put before the Court -

(i) The personal biographical details of the person applying. (ii) The known biographical details of the person about whom information is sought, and the relationship to that person of the applicant. (iii) The 'special ground' upon which the application is being made. Again there are variations between jurisdictions, but basically the Court has to be satisfied that there exist 'special' grounds for the opening of the records, and not merely the general ground of natural curiosity. The social worker may think it appropriate to provide a supporting affidavit to accompany the application." Adoptions Local Placements Manual CYPS DSW 1995.

Adoption files not available for inspection

DSW 3.4.18. Re Adoption Act 1955, Section 23. Adoption records are not available for inspection by anyone outside the department except where: a trustee needs to inspect records for the administration of an estate or trust; a Registrar of Marriages, or a marriage celebrant under the Marriage Act 1955 and the Marriage Amendment Act 1976, is to investigate the possibility of a forbidden marriage relationship; a Court Order has been made for the purposes outlined in Section 23 (2) (a) or (b) or (c). Problems have been encountered by social workers because of the ever increasing demands for information from members of the public. The Adult Adoption Information Act and increasing openness in adoption have resulted in an increase in requests for identifying and non-identifying information from the Department's Adoption files. Frequently people who are wanting such information are quite desperate for whatever they can get, but social workers, while recognising their needs, and affording them every consideration, must provide only that information that they are legally able to release. Departmental Policy allows for non-identifying information to be given, but, no Christian names or other identifying information may be given, unless such is specifically permitted by legislation. ie (Privacy Act, or Official Information Act). If a person requires identifying information from an adoption record and has special or urgent reasons for requiring that information, they may make an application under Section 23 to have the particular record opened. Social workers should advise any person wishing to pursue such an application to seek advice from a solicitor." Adoptions Local Placements Manual CYPS DSW 1995.

Adoptee closed records policy

A criticism of the Adoption Act 1955 s23 when applied to obstruct adult adoptee access to the truth of their origins, is

that no reason was given to substantiate or justify the resulting policy. Murray Cree, in his social work studies at Victoria University produced a paper on the subject concluding "Present laws in New Zealand obstruct formal access to adoption records without supplying the empirical data to substantiate the official view" Cree 1979.

Crux issue of discretion

In using discretion a Judge may take a conservative or liberal approach. The more conservative view that 'special grounds' should be constrained to the type, intensity or range of those listed in section 23, or a more liberal approach of "any other ground" in its literal meaning.

Discrimination of adopted persons on grounds of status a breach of UN Conventions?

Legal opinion— "Do adoptees have equal rights? With regard to this you refer to various international documents to which New Zealand is a signatory. The general tenor of these documents is, in the words of Pethig J, in *Re an Application by M* .

"That all human beings are born free and equal in dignity and rights, that a human being's rights are from birth and that a person from birth should have an equal right before the law without discrimination."

This is also the thrust of the Charter of the United Nations in as far as it relates to the matters in question.

One question can be answered very simply at this stage. You ask whether "by withholding the right to inspect ones own birth entry, whatever the reason, the Registrar is discriminating against adoptees?" The answer can only be that he is discriminating. Discrimination arises when two individuals are not treated in a like manner for whatever reason.

It is strongly arguable that this discrimination is in breach of articles 2, 3 and 26 of the International Covenant on Civil and Political Rights. The discrimination is on the grounds of the person's status as an adoptee, as compared with a person who is registered as the child of their natural parents. Article 26 provides:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The adoptee does not fall within any of the specific categories. An adoptee does not attain that status until sometime after birth. Nevertheless, it is arguable that withholding information from adoptees which is not withheld from others is discrimination on the ground of some "other status". In articles 2 and 3, signatories to the covenant undertake to ensure that, inter alia, article 26 is complied with. If adoptees are being discriminated against on the ground of some "other status" then articles 2 and 3 have also been breached."

Source *Case Re an Application by M*, legal opinion obtained by M J Burkinshaw. 12/5/1987.

OFFICIAL INFORMATION ACT REQUESTS

Trapski—K.22. Any person has a right of access to and must, on request, be given access to any personal information held by any State agency about that person provided that the personal information can be readily retrieved: a 24(1) Official Information Act 1982. All that is required is a letter addressed to the agency in question specifying what information is sought and indicating that the request is made under the Act. If the inquirer is not sure what personal information is held by the agency, the request should be for all personal information about the inquirer held by the agency.

There are limited grounds on which personal information can be refused, including that disclosure would:

- (a) Involve the unwarranted disclosure of information of the affairs of another person or a person who has died: s 27(1)(b);
- (b) Breach an express or implied promise to the person who supplied the information that it would be held in confidence: s 27(1)(c); or
- (c) Breach legal professional privilege: s 27(1)(g). If release of personal information is refused, the agency concerned must advise on which statutory ground such refusal is based: s 27.

The information should be supplied as soon as possible and, in any event, not less than 20 working days from the date of the request. If it is not supplied within that period or if the inquirer disputes the ground on which disclosure is refused, application can be made to an Ombudsman to investigate the non-disclosure or refusal: s 35.

On 4 February 1998 the Ombudsmen and the Privacy Commissioner reached an agreement that requests from siblings or other relatives about an adopted person or from an adopted person about siblings or other relatives would be dealt with by the Ombudsmen in exercise of their powers under the Official Information Act.

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp418-419. K.22. (20/6/02) Brooker's

Requests under Official Information Act 1982 DSW Adoptions Information Manual

10.1 "All requests for information about persons other than the requester should be made under the Official Information Act 1982, which allows that any person...*may request a Department...to make available to him...any official information which is... specified with due particularity.* The request will be made in terms of s12, and should be considered with particular reference to s6 and s9. Although the request will be dealt with under the Official Information Act, the matters that the social worker must consider under that Act will require him or her to consider the Principles of the Privacy Act as well...The Official Information Act provides that information should be made available unless there is good reason to withhold it. For this Service, the main reason to withhold the information is when it is 'necessary to protect the privacy of natural persons including that of deceased natural persons', and

there is no public interest in releasing the information that would outweigh the need to withhold it. (s9(2)(a)). As personal privacy is in fact at issue, identifying information about any person may only be disclosed when it is on record, or has been ascertained, that permission for release has been given by the person concerned. Enquiries from adopted people over 20 and their birthparents for information about each other will be considered under the Adult Adoption Information Act. They should not use the Official Information Act for this purpose. Enquiries for one's own personal information will be considered under the Privacy Act.

Requests by adopted people non-identifying information

10.2 When an adopted person requests information about birthparents other than their identity, or requests all information that is available when a veto has been placed on the identity, the social worker must obtain all of the information that relates to the enquiry, carefully read and assess the file, isolate the relevant information and ensure that its disclosure would not identify, or enable the identification, of the birthparent. In general terms, an adopted person can be given information about the physical characteristics of his or her birth parents and family members, their general health, education, ethnic origins and general family circumstances. This information has a very direct bearing on his or her own personal knowledge about him-self or herself, and should not infringe the rights to privacy of the birth parents concerned. There may be other information recorded, however, which is of such a nature that to give it out would possibly cause embarrassment to the parent concerned, and which is plainly his or her own information, and not the adopted person's. For example the disclosure of information about the circumstances of the child's conception might well breach the privacy of the parent on the basis of sensitivity, and information about the mother's physical and psychological condition during and after the birth could be seen so also, as it pertains to her own physical and emotional situation, rather than to the adopted person's actual health.

When adoptive parents' permission for non-identifying information is required.

10.2.1 There is no age restriction on who may request, and receive information. Nor is there any absolute obligation to consult with the adoptive parent of a young person under 20 even though the parent remains a guardian. There may be circumstances in which consultation with the adoptive parents (with the consent of the adopted person) may be desirable, particularly when the young person is living at home. Generally, however, there will be no reason to consult with the adoptive parents in respect of non-identifying information, where the adopted person is aged over 18, or is aged over 16 and is married or living away from home.

An adopted person between the ages of 18 and 20 can, depending on the circumstances, be encouraged to keep his or her adopted parents informed of the situation, but such a decision should be left with the adopted person.

Unless there are particular circumstances of disruption in the family...non-identifying information should not be

given to young persons under 16 years, unless they are agreeable to obtaining their adoptive parents' permission.

Access to SW581

Report on a Child available for Adoption

10.2.2 Social workers making the decision of what non-identifying personal information they can release are required to exercise judgement, and keep it in mind that: The Service's records are quite likely to include inaccuracies, and material that is not objective, and that is very much out of date and out of context. Ideally, re-uniting family members will communicate directly with one another, and over time, as they develop trust and confidence in one another, they will share their information. In the well-intentioned effort to help the adopted person to fill in some of the blanks before he or she considers making an approach to the birth family, it is important that the social worker does not actually impede the process of reconciliation by providing erroneous and possibly prejudicial information. A copy of the actual form SW 581 may be given to the birthparent...but there is good reason to transcribe the information from it when it is the adopted person who is requesting it. In exceptional circumstances, after discussions with the supervisor, the actual SW 581 may be photocopied, but generally the relevant information should be carefully transcribed, and the requester advised that the original document is being withheld under s9(2)9a). He or she may request a review of this decision from the Ombudsman.

Requests by adoptees under 20 for identifying information

10.3 Requests under the Privacy Act or the Official Information Act may be made by a person of any age. A person under 20 is entitled to have his or her request for identifying personal information considered, notwithstanding that the Adult Adoption Information Act will not apply. All requests must be considered on a case by case basis, taking into consideration all the circumstances of the case- *There is no one answer to all requests.* When an adopted person under the age of 20 requests the name of his or her birthparent, the information should be withheld to protect the privacy of the birthparent. It is necessary, however, to balance against this the public interest element in s9(1) of the Official Information Act, and the Information Privacy Principles of the Privacy Act. Unless the birthparent has left instructions on file that his or her child is, or is not, to be given his or her name and/or address, it may be the appropriate action to trace and contact that birthparent and ascertain his or her wishes in the matter. If the birthparent has placed a veto with the Registrar-General, this is a clear indication that he or she does not wish to be contacted.

When there is an update on file

10.3.1 When an adopted person between the ages of 18 and 20 years requests identifying information under the Official Information Act, and on recourse to the adoption file, the social worker finds that the birthparent has left a record of his or her willingness for his or her name and address to be given to the adopted person, that information may be given without necessarily obtaining the permission of the adopted person's adoptive parents. If, however, the

birthparent's wishes are for the contact to be made with the adoptive parents, rather than the child, the name may not be given to the child in the first instance. When in the matter of an application as outlined above there is no indication on file of the birthparent's wishes, the social worker...may consider contacting the birthparent to ascertain them.

Adoptive parents to be consulted

10.3.2 In enquiries under the Official Information Act, however, there is no statutory requirement to obtain information that is not readily retrievable, and some effort may be required to ascertain whether or not the information we hold can be made available. To act beyond the strict requirements of the Act without considering the wishes of the adoptive parents, who remain guardians until their child is 20, would be to disregard their relationship with their child, and could be regarded as an unwarranted intrusion into their family. In this situation the adopted person will be told that their request for identifying information is refused, unless he or she is agreeable to his or her adoptive parents being consulted. As in the case of any refusal, the applicant should be referred to the Ombudsman to ask for a review of this decision if he or she wishes. It may be that the original request for information comes from the adoptive parents, in which case, depending on the age of the child or young person, the wishes of that child may be sought.

Guidelines 10.3.3 Detailed guidelines are set out...

Enquiries from birthparents of adoptees under 20

10.4 Birthparents of adopted people under the age of 20 may approach the Service for a number of different reasons. They may wish to; (i) Leave a record on the file of their availability in case of the adoptive family's need for information at any subsequent time. (ii) Pass on essential medical information (consider s11 AAIAct) (iii) Ask for non-identifying information about the family at the time of placement. (iv) Ask for non-identifying information on the current situation of the child. (v) Ask for identifying information about the child. Requests (iii) to (v) should be considered under the Official Information Act.

Non-identifying information

10.4.1...When birthparents request information about the family in which their child was placed, consideration has to be given to enabling the inquirer to obtain a realistic picture of the circumstances as they affect the child, without passing on information that is clearly personal to the adoptive parents only. The birthparent may be given general information, (i.e. that which is not so specific as to be identifying), concerning the ethnicity, ages, occupations, education, general state of health, interests and personalities of the adoptive parents, and perhaps their general living area, e.g. small town, rural. There may be other information on file to do with adoptive parents' financial circumstances, their marital relationship, fertility and other specific medical matters, that is personal to them, and the disclosure of which would indeed be an invasion of privacy. There is no mandate at all to release this information on the ground that it may be non-identifying; it is also personal information of the adoptive family, and its disclosure would be a serious breach of confidentiality.

Identifying Information

10.4.2 When the birthparent of an adopted child under 20 requests the name of his or her child, post-adoption, this information may not be released under s9(2)(a) of the Official Information Act. Since the name is not already known, that is, the adoption was not arranged in such a way that the birth and adoptive families met and exchanged names, we may assume that the adoptive parents believe their names and that of their child to be unknown to the birthparent. As they remain guardians of the child until he or she is 20, and they have an interest in the request, they would need to be consulted. There is a rationale for approaching the adoptive parents to canvass their opinion, for the reason that practices have changed since they adopted. It is likely that at the time of their child's placement they were not given the option of meeting the birthparent(s), or that the prevailing climate of opinion was such that they may not have seen any bene-fit for themselves or their child in doing so. They have now had the experience of parenting an adopted child, together with the awareness that current practice is for open communication between parents. This may be an opportunity for them to review their own position, when they know that the birthparent is indicating availability. The birthparent may consider, particularly in the case of an older child, that the enquiry may be postponed until the child is 20, when he or she will be contacted directly under the Adult Adoption Information Act, and not with the per-mission of his or her adoptive parents. Depending on this, and other circumstances of the birthparent's enquiry, which should be thoughtfully discussed with him or her, the social worker may, after reading the file carefully, and discussing it with the supervisor, decide to locate and approach the adoptive parents...The social worker must continue in the duty to protect the privacy of the adoptive parents by not releasing identifying information about them, and this must be made very clear to them. They will be told that the birthparent has approached the Service expressing an interest in an exchange of information, but that it is our duty to ascertain their wishes with respect to this, and not to give identifying or current information without their permission.

Approach to adoptive family

!0.4.3 In most circumstances the initial approach will be made by letter written by the social worker in the district in which the adoptive parents are found to be living. When there is a response to this letter, a personal interview may be offered in the clients' home or in the office. The social work role here is one of potential mediator - if both parties are agreeable- not that of advocate for the birthparent. There is usually no way of knowing prior to the approach, what the adoptive family's circumstances are, they may have been having difficulties with the child, or have other pressures to deal with. (The child may even have died, which raises the question of whether a death search should be undertaken first. This may not be practicable, but the possibility should alert the social worker to the need for care.) Following on from the letter, the social worker's approach is to assist the adoptive family to consider whether they feel able to provide information to the birthparent, and/or whether they may wish to obtain information for themselves at the same time; if they do wish to proceed

with this, whether communication will be direct or via the Service. The adoptive family's decision will be fully supported. If the decision is to have some form of communication, that should be facilitated. If it is not, the birthparent will be told only that which the adoptive family have authorised, by way of details of the interview, and that their enquiry under the Official Information Act cannot proceed in terms of S9(2)(a).

Enquiries from other relatives of the adopted person

10.5 The Service receives many enquiries for information about adopted people from their natural siblings, grandparents, children and occasionally other relatives. These people may be informed of their right to apply to the Court for the records to be made open to them under s23 of the Adoption Act 1955. In many cases, however, they may not be able to adduce the necessary arguments to claim 'special grounds'.

Those who have rights under the Adult Adoption Information Act

10.5.1 When such an enquiry is received, it must first be established with the enquirer whether they have discussed the matter with the birthparent who has a right under the Adult Adoption Information Act to apply for information. If the enquirer is unwilling to do this, or says that the birthparent is aware of the situation but refuses to apply, the request should be refused under s9(2)(a) of the Official Information Act. If a social worker were to approach the adopted person to ascertain whether giving the information would be a breach of his or her privacy, the birthparent may be able to claim that we had failed to protect his or her privacy by doing so. Even to disclose or confirm to an enquirer that an adoption has taken place could be a breach of the birthparent's privacy, so care must be exercised in taking the initial enquiry. A person whose request is refused must be told that it is for the reason given in s9(2)(a) and that he or she has the right to apply to the Ombudsman for an investigation and review of the decision. The client may also be referred to s23 of the Adoption Act, and informed of his or her right to apply to the Court for the records to be made available for inspection.

Where the birthparent has died

10.5.2 Where the birthparent who could have applied has died, there remains the duty under s9(2)(a) to protect the privacy of deceased natural persons. The Adult Adoption Information Act, however, does not give protection to the birthparent who is deceased. Section 4 (2)(a) and (b) of that Act enables the Registrar-General to supply an original birth certificate to an applicant, even though there is an unexpired veto, where the Registrar-General is satisfied that the birthparent is dead. It would seem reasonable to follow a similar course of action...S12(2) requires that the official information requested shall be specified with due particularity in the request. S13, though, requires the Department to give reasonable assistance to a person who wishes to make a request...

Details required to locate birth entry

10.5.3 It is reasonable to require an applicant to provide, if not the exact date of birth, approximate details to enable the

birth record of the adopted person to be found, and convincing evidence that the birthparent has died. This is the case whether the person is asking for such nonidentifying information as we may hold, or for identifying information that will entail search and contact before we may determine whether it can be disclosed. A vague enquiry as to whether a person may ever have borne a child, is not specifying with due particularity, and may be refused.

Careful approach necessary

10.5.4 When a decision is made to search for and attempt to contact the adopted person to ask if they are willing for their name and address to be given to the relative who is applying, it is of the utmost importance that the right person is found. There is a serious risk of breach of privacy if this work is not done carefully. When the local office has done all possible birth, death and marriage registrations and electoral rolls, Wellington office may be asked to assist. It should be explained to the applicant that where we are taking these extra steps to obtain the information they request, we will almost certainly not be able to complete the enquiry within the time specified by the Official Information Act.

Approach to adopted person

10.5.5 When the adopted person has been located the approach should be made by a social worker in the area in which he or she is living. A letter similar to that which is written to an adopted person who is the subject of a s8 enquiry, may be the best way to open the discussion, so long as there is no suggestion that it is a parent who is enquiring. As with other such enquiries, the adopted person should be offered an appointment to discuss the matter, be given all the facts clearly, and supported in his or her decision. Only such information as that person authorises may be passed on to the enquirer.

Requests for identifying information about birthfathers not on birth entry

10.6 It is not common for the names of birthfathers to be included on the original birth certificates of children placed for adoption in the years relevant to the Adult Adoption Information Act. For one major reason, they were often not available to sign the birth registration when so many women went away from home for the birth and adoption of their child. S9 of the Adult Adoption information Act is therefore not applicable. Many adopted people will learn the name of their birthfather from their birthmother. There are others, however, who have not been able to do this, and approach this Service to ask if we can provide it from our files. Whether or not we will be able to assist will require a careful reading of the file and discussion...with the supervisor. The uncertainty should be explained to the enquirer.

Where the birthmother cannot remember the name

10.6.1 Where the adopted person tells us that the reason the birthmother cannot give them the name is because she has forgotten it- a not unreasonable explanation given the trauma of the loss, the simplest way to deal with the enquiry is to suggest that the birthmother apply for a copy of the SW581 under the Privacy Act. This would be immediately available to her as of right, without any other consultation.

Where the birthfather is dead

10.6.2 If the social worker is certain that the birthfather is dead, the name may be released under s9 of the Adult Adoption Information Act. It is not always easy to be sure of this when we may have only one forename, and there may be many others of the same name...care is needed.

Where no indication that the birthfather is dead

10.6.3 In an enquiry under the Official Information Act, the adopted person is requesting the name of his or her father. We may elect to tell the enquirer whether or not we hold the name, but should withhold it if it is necessary to 'protect the privacy of natural persons...' The name is, of course, personal to the birthfather, and may therefore, not be disclosed without his permission. The obtaining of this permission, however, has to be carefully thought out. It may be recorded on the file whether or not the birthfather knew of the pregnancy, whether he acknowledged or disputed paternity, and/or whether he agreed with the adoption. Whatever these circumstances, it is likely that an approach from a social worker will be unexpected, and must be handled sensitively. It is absolutely essential that the actual birthfather named on the file can be located. This is by no means an easy task, when it is not usual for us to have recorded the full name and a date of birth as confirmation of the right person. The search must be thorough and comprehensive, perhaps including all the electoral rolls for the country, marriage and death registrations. This is a time consuming task, which may be beyond the resources of the Service when the information is scanty and the name is common. It is completely out of the question for a social worker from this Service to contact several men of the same name to ask them if they could have been the father of so-and-so's baby. The breach of privacy in such activity is obvious. If there is no certainty that the right person can be located, the request should be refused under s9(2)(a) of the Official information Act, and the enquirer advised of the right to ask the Ombudsman to review the decision.

Contacting the birthfather

10.6.4 If the actual birthfather is located, the social worker in the area in which he is living may be asked to contact him to explain clearly the nature of the enquiry, that is, to tell him that his name has been recorded on an adoption file in our Service as the father of a child born in (place), on (date), and ask him if this is correct. The social worker has to be very careful of the privacy of all parties involved here, unable to disclose any information about the adopted person or the birth-mother that has not been sanctioned by those people, although certainly, if the person approached agrees that he believes himself to be the father in question, the name of the birthmother will have to be confirmed. The social worker will then be available to facilitate whatever contact is agreed.

Where the birthmother has placed a veto

10.6.5 Where the birthmother has placed a veto we know that she has clearly indicated a wish for privacy. Her veto, however, has the effect of preventing any release of her name and address, which the social worker must be careful not to do. The birthfather has had no opportunity to place a veto as his name was not on the original birth entry.

His name is a separate issue. In this case, if the birthfather is contacted, he should be informed of the birthmother's veto, and our responsibility in the matter, and asked to respect her wish for privacy.

Procedural requirements under the Privacy and Official Information Acts

10.7 There are certain procedural requirements that must be followed under both the Privacy Act and the Official information Act...Decisions on requests must be made and communicated to the requester as soon as reasonably practicable, and in any case not later than 20 working days...[The Act provides for extension of time where necessary, the requester should be informed of any extended delay.]“ Adoptions Information Manual CYPS DSW 1995

Privacy Act access refusal to records by birth aunt

1996 Ellis DCJ Napier FC *Re Adoption of S* “Since inspection of adoption records would involve a disclosure of personal information, reference must be made to the Privacy Act 1993. Among the Privacy Principles established by s 6 Principle 11 provides...(a to f)...None of these exceptions could be said to apply in respect of information about S's birth and adoption. There has been no argument in this case as to the applicability of Privacy Act principles in respect of adoption records but I have taken the view that Principle 11 is directly relevant and that there is nothing in the Adoption Act 1955 or the Adult Adoption Information Act 1985 which derogates from the strict limitations on disclosure of such personal information. To the contrary the privacy principles underscore and give focus to the narrow approach taken by the Courts in the past to applications for inspection and disclosure under s 23” at 560 [1996] NZFLR 552-561 // 14FRNZ 166-174

Use made of Official Information Act re adoption

Requests under the Act from those entitled under the Adult Adoption Information Act. From September 1996 to March 1997= 661 requests. Source: Official Statistics of DSW CYPS AISU see p543C this book for full detail.

PRIVACY ACT REQUESTS

K.23 Privacy Act requests

Section 6 Privacy Act 1993 sets out certain basic "Information Privacy Principles". IPP 6 deals with access by individuals to personal information held by any agency and states that the individual concerned can obtain confirmation from the agency as to whether any personal information is held, and have access to that information.

Access to personal information can be refused only on explicit grounds including:

- (a) Disclosure would amount to an unwarranted disclosure of the affairs of another person or of someone who has died: s 29(1)(a).
- (b) Disclosure would breach an express or implied promise to the person who supplied the information: s 29(1)(b).
- (c) The information relates to the physical or mental health of the inquirer and disclosure would be likely to prejudice that person's health: s 29(1)(c).
- (d) The information relates to someone under the age of 16 years and disclosure would be contrary to that person's interests: s 29(1)(d).

A request for personal information must be met as soon as reasonably practicable and in any case not less than 20 working days after the request is received: s 40(1). If the request is not responded to within the time limit or is refused, the matter can be taken up with the Privacy Commissioner.

Adoption related requests

Under a protocol between the Ombudsmen and the Privacy Commissioner, requests from siblings or other relatives about an adopted person or from an adopted person about siblings or other relatives will be dealt with by an Ombudsman as an official information matter. Requests from birth parents about their adopted children and requests from adopted children about their birth parents will be dealt with by the Privacy Commissioner under the Privacy Act.

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp419. K23. Brooker's. 21/11/2003

Requests under the Privacy Act 1993 DSW Adoptions Information Manual

"The Privacy Act applies to requests for personal information that is about the person who is making the enquiry.

Right to apply Principle 6

9.1 The Privacy Act provides that any person shall be entitled to obtain confirmation of whether or not the Service holds personal information, and to have access to that information, when it can readily be retrieved (Principle 6). The right of access to information is qualified by a number of reasons the Service may use to refuse a request, most notably, that the disclosure of the information would involve the unwarranted disclosure of the affairs of another individual or of a deceased individual. (s29(1)(a)). In practice, adopted people most commonly request information about their birthparents, which enquiries will be dealt with under the Official Information Act. They may also

request information about themselves, if they were adopted as older children, or if they spent any period in the care of the Department. These latter enquiries usually concern information on Personal Files rather than Adoption files. The AISU social worker will need to consider whether the enquiry is more properly referred to the local Manager of the Care and Protection Section of NZCYPS.

Requests by birthparents for personal information

9.2 Requests by birthparents for personal information about themselves which is contained on SW 581, are considered under the Privacy Act. A birthmother may be given a copy of the SW581 itself, and, when it is she who has provided the information, about the birthfather; it is only any identifying information about the adoptive parents that may be on this form, that must be deleted. A birth father may be given information about himself, regardless of whether or not he provided it, but he may not be given the information about the birthmother or the name of the adoptive parents. To protect the privacy of others it may be advisable to transcribe, carefully, the information from the SW581. This is in accordance with s42(2)(e) of the Privacy Act, i.e. 'by giving an excerpt or summary of the contents;'. It is necessary to explain to the applicant that he has not been given access to the original document under s29(1)(a) of the Privacy Act, and that he may ask the Privacy Commissioner to review this decision.

Requests by adoptive parents personal information

9.3 Adoptive parents may request notes of their assessment and/or home visits from the adoption file and the request will be considered under the Privacy Act..."
Adoptions Information Manual CYPS DSW 1995

Use made of Privacy Act re adoption

Requests for access to personal information on adoption files under the Act. CYPS 1995=146. 1996=553.

Source Official Statistics of DSW CYPS AISU see p543C this book for full detail.

References to the Privacy Act in adoption proceedings.

1996 Ellis DCJ Napier FC *Adoption of S Declined* The applicant J, sought an order for inspection of adoption records under s23(3)(b)(iii) of the Adoption Act 1955

Privacy Act 1993 "Since inspection of adoption records would involve a disclosure of personal information, reference must be made to the Privacy Act 1993. Among the Privacy Principles established by s 6 Principle 11 provides ... (a to f)...None of these exceptions could be said to apply in respect of information about S's birth and adoption. There has been no argument in this case as to the applicability of Privacy Act principles in respect of adoption records but I have taken the view that Principle 11 is directly relevant and that there is nothing in the Adoption Act 1955 or the Adult Adoption Information Act 1985 which derogates from the strict limitations on disclosure of such personal information. To the contrary the privacy principles underscore and give focus to the narrow ap-

proach taken by the Courts in the past to applications for inspection and disclosure under s 23” at 560. [1996] NZFLR 552-561 // 14FRNZ 166-174 NZ Adoption 1840-1996 p343A

Case comment

“Privacy Act While a strong case can be made for an adoptees right to know the truth concerning themselves, it is more complex with an application by a relative. The issue of the application of the Privacy Act 1993 needs to be fully argued. I am aware of a substantive case lodged with the Waitangi Tribunal, that would for Maori, on cultural grounds, allow access of right by relatives.” KCG ‘NZ Adoption 1840-1996’ p343A

2001 Fraser J Palmerston North *FC RE VA [inspection of adoption records]* 1/8/2001. An application under s 23(2)(b)(iii) Adoption Act 1955 to have the Court records of adoption opened and made available for inspection. A sister sought contact with her adopted out natural sister - was refused- Endorsed 1996 Ellis DCJ Napier *FC Adoption of S* at 560 [1996] NZFLR 552-561 re Privacy Act 1993 Principle 11. Refused application. 21FRNZ at 95

Privacy Commissioner’s Submission Re Adoption Information

The Privacy Commissioner’s submission to the Law Commission in relation to Ch 16 of the Law Commission’s discussion paper Adoption: Options for Reform.

“Adoption law was designed as a humane response to the plight of orphans and ‘illegitimate’ children. Later, the ‘closed adoption’ process was favoured, with its attendant secrecy, to better serve those humane impulses. However, professionals in the adoption area now believe that total secrecy is not the best approach given the continuing human urge for adopted persons to know their origins and the desire of birth parents to know something of their offspring. Accordingly, from 1986 New Zealand has granted all adopted persons a qualified right to have access to their ‘original birth certificate’ (that is, the certificate showing the person’s birth mother, and possibly birth father, rather than the adoptive parents shown on the ‘amended birth certificate’).

“The 1985 reforms, although widely welcomed, were somewhat piecemeal. The Adoption Act 1955 remains on the statute books as the primary piece of adoption legislation, notwithstanding that it was enacted in the period of closed adoption. Its ethos does not sit comfortably with the 1985 reform. Furthermore, the 1985 Act, with its principal focus on register information and with veto provisions, remains a restrictive piece of legislation in information terms, and largely fails to address wider issues such as access to adoption information in departmental files and the position of other relatives. Young adopted persons have no rights under the 1985 Act. Older adopted persons, subject to a pre-1986 adoption, may never get access to information about their origins if a veto is lodged.

“A continuum could be drawn from a tightly closed adoption process to a completely open one. There are bound to be tensions in privacy terms, when dealing with information about more than one person, regardless of the point

on the continuum that law is placed. The privacy interest in having access to information about one’s self, as represented by information privacy principle 6, is bound to come into conflict with the privacy interest in controlling the disclosure of information about one’s self, as represented by principle 11. It would be arrogant to say that there is a single ‘correct’ way to resolve these issues. Although it is possible to go some way to reconcile the competing interests, any resolution is almost certain to elevate one interest over another at some point. My tentative view is that it is appropriate to put the adopted person at the centre of consideration and elevate their interests over that of other parties in the event of most conflicts of rights or expectations. This generally relates to giving precedence to the adopted person’s right of access over a desire by other parties to constrain disclosure.

“Although this approach represents an inroad into any expectation of confidentiality held by birth parents in the closed adoption period, this may nonetheless be seen as reasonable given modern thinking that the best interests of the children are served by allowing them, if they wish, to have access to information about their biological origins. Nonetheless, any change in approach would need to be implemented with care to protect vulnerable people who were involved in adoption processes in an earlier era.

“The report deals with the following specific issues:

“—Should a birth certificate simply be a record of the birth of a child (as indicated in s 2 of the Births, Deaths and Marriages Registration Act) or should it also contain information about the genetic and legal parenthood of that child? Is there any other information that might be recorded on a birth certificate? If it is to be a full record, should the original details and subsequent changes be shown on the face of the certificate?;

“—Would adoption be more appropriately reflected by a certificate of legal parenthood rather than an altered birth certificate?;

“—Where artificial reproductive technology or a surrogacy arrangement is involved, should the names of the genetic parents/commissioning parents also be on the birth certificate?;

“—Should the Adult Adoption Information Act be incorporated within the Adoption Act?;

“—Should there be any age restriction at all on access to an original birth certificate? At what age should an adopted child be entitled to further information about his or her identity?;

“—Should other family members be entitled to seek information about relatives who have been adopted? If so, should access be limited to certain classes of family member? Should such access to information be limited to where the birth parent linked to that family has died?;

“—Should adoptees and birth parents be given rights of access to information similar to those proposed for children born of donor gametes?; and

“—Should non-contact vetoes be used instead of information vetoes? Should adopted persons and birth parents

be allowed to convert an existing information veto to a non-contact veto? Should birth parents who adopted a child out after 1986 be able to place any type of veto? Should information vetoes be abolished?"

ACCESS TO INFORMATION LAW COMMISSION REPORT 2000

\Report No 65. 'Access to Information Ch 16.

Access to adoption information—Snapshot

144 A fundamental part of our proposals is an emphasis upon honesty and openness in adoption. To this end, we are proposing that adopted persons, birth parents and adoptive parents have unrestricted access to their adoption information. Access by other persons will be dependent upon their obtaining the permission of the adopted person or demonstrating to the Family Court that they have a genuine and proper interest in the information they are seeking. Existing vetoes on access to information will remain in force.

145 To accompany this emphasis upon openness, we also propose the availability of a new form of birth certificate for adopted persons, which would list birth parents, birth name, date and place of birth adoptive parents, new name, and date and place of the adoption order. The same conditions will apply to access to this certificate as to access to adoption information.

146 These issues are fully discussed in chapter 16.

Access to information Ch 16 Background

467 Access to Information is a thorny issue. The central question is the extent to which the State ought to be able to control access to one's own personal information. It also raises significant privacy concerns; the right of individuals to access information about themselves must be balanced against the extent to which such information can be accessed by others and the extent to which individuals might be required to produce such information to others. It also raises questions as to the priority that should be assigned to the desire for confidentiality of the parties involved. Achieving this delicate balance is more difficult in New Zealand than in other countries because, unlike many other countries, we allow almost unrestricted public access to Births, Deaths and Marriages records. [488]

Birth Certificates Current system

468 At present when a final adoption order is made, access to the child's original birth registration is restricted and a new birth certificate is issued. [489] This certificate lists the adoptive parents as the child's parents and gives their ages as at the date of the birth of the child. The child is usually registered under a new name.

469 The Adult Adoption Information Act represents a partial inroad into the secrecy surrounding adoption. This Act allows adult adoptees to apply for a copy of their original birth certificate [490] and allows birth parents to

re-establish contact with their children. [491] Birth parents who had a child adopted before 1985, and persons adopted before 1985, may place a veto preventing access to adoption information and the original birth certificate held by the Registry of Births, Deaths and Marriages (BDM). [492]

Purpose of a birth certificate

470 Some of the objections to the current system of birth (and by implication, adoption) registration may stem from general confusion over the purpose of a birth certificate. The Births, Deaths and Marriages Act 1995 is described in the long title as:

An Act to provide for-

(a) The recording of information relating to births, names, adoptions, sexual assignment and reassignment, deaths, and marriages; and

(b) Access to information recorded in respect of any such matter; and

(c) The provision and effect of certificates relating to such information recorded in respect of any birth, death, or marriage. [493]

471 A birth certificate is defined as a certificate that contains registered birth information relating to that person's birth. [493] A birth certificate records the date and place of birth, the names of the birth parents (if the father is a legal guardian of the child), and the name of the child.

472 However, birth certificates have come to record much more than the fact of an individual's birth. Adoption [495] and sexual assignment [496] or reassignment [497] provide grounds for altering a birth certificate, as does a change of name by marriage or deed poll. [498] Because a birth certificate reflects subsequent events in the life of a person, it is inaccurate to describe it simply as a certificate in relation to the birth of a person. It is more realistic to say that a birth certificate represents a snapshot of an individual's status at the time that the certificate is issued.

Submissions

473 An overwhelming number of submitters expressed dissatisfaction with the current birth certificate system and the restrictions placed on access to information. The main objection they made related to the restrictions placed upon access to the original birth certificate [499] and the substitution of adoptive parents as if they were the birth parents of the child. Many adoptive parents commented that this is excessive and unnecessary, and even ludicrous where an open adoption is practised. One submitter, commenting on the fact that she had all the information that would appear on her child's birth certificate, wrote: [500]

Our son's original birth certificate is a legal record of his birth therefore he should be allowed access to it now given the fact that he is already privy to all information on it.

Other objections related to limitations placed upon access to other adoption information.

474 We asked the following questions about what information might be reflected in a birth certificate:

- Should a birth certificate simply be a record of the birth of a child (as indicated in section 2 of the Births, Deaths, and Marriages Registration Act) or should it also contain

information about the genetic and legal parenthood of that child?

- Is there any other information that might be recorded on a birth certificate?
- If it is to be a full record, should the original details and subsequent changes be shown on the face of the certificate?
- Would adoption be more appropriately reflected by a certificate of legal parenthood rather than in an altered birth certificate?
- Where artificial reproductive technology or a surrogacy arrangement is involved, should the genetic parents' and/or commissioning parents' names also appear on the birth certificate?

475 We received a range of responses to these questions. Many thought that a birth certificate should be a record of a person's birth, an immutable fact that cannot change. However, most also recognised the need for some form of official recognition that an adoption has taken place. Many suggested that there should also be a full birth certificate which shows all details relating to the genetic heritage, birth, and subsequent adoption of a person. Others thought that this information would better be recorded on a certificate of adoption or legal parenthood.

476 Most submitters commented that although they thought that the individuals involved should have full access to such information, they did not consider that all of this information should be shown on a document that would have to be used to establish identity for official purposes.

Recommendations

477 We recommend that where a person is adopted, two birth certificates should be created and issued. One certificate will simply record the current (that is, post-adoptive) name of the child, the date and place of birth, and the names of the adoptive parents. This short-form certificate will not indicate parentage other than that of the adoptive parents. This certificate will be available to all the world and will be the only certificate that a person can be compelled to produce for the purposes of establishing identity. To a large extent this proposal replicates the status quo.

478 The second certificate will show the following details on the face of the certificate:

- the child's original name;
- the date and place of birth of the child;
- the birth parents;
- the adoptive parents names;
- the date that the adoption order became final;
- the date that the adoption order was discharged; and
- the new name of the child (if altered) and any subsequent changes of name.

479 Some amendments would need to be made to the Births, Deaths and Marriages Registration Act to allow for the creation of the new certificates and to alter the rules regarding the manner in which adoptions should be registered.

480 This long-form certificate would be available as of

right only to the adoptee, adoptive parents and birth parents. The adoptee should never be required to produce this long-form certificate for identification purposes. However, adoptees who chose to use this document to identify themselves may do so, in which case it would be a legally effective document. This certificate would not be open to general search and might only be accessed if:-

- the applicant has the permission of the adopted person (or the adoptive parents on behalf of the adoptee where the adoptee is not of sufficient age, maturity or capacity to make such a decision); or
- the adopted person is dead; or
- the applicant can demonstrate to the Family Court a genuine and proper interest in inspecting the record. [501] We envisage that the applicant would submit an application (with supporting evidence) to the Family Court to inspect the birth certificate. If the applications were successful the Family Court would notify BDM that approval has been granted and BDM would issue the certificate.

481 At present adoptees can apply under the Adult Adoption Information Act for a copy of their original birth certificate. Some adoptees may continue to want a copy of the original birth entry without the other information contained in a long-form birth certificate. Adoptees, birth parents, adoptive parents, and other persons with a legitimate interest [502] should be able to apply for a copy of the original birth entry. Where such a certificate of the original birth entry is issued, it should be endorsed with the words "Superseded by adoption order" and the date upon which the adoption order was made.

482 We have consulted with the Privacy Commissioner and BDM. Both agencies support our proposal. The proposal resolves many privacy concerns because, whilst allowing individuals the autonomy to access information about themselves, it does not require them to produce this information to others if they do not wish to do so. BDM supports the idea of a short-form certificate showing place and date of birth, current name, and current legal parents. The automated system introduced at BDM allows the production of the long-form certificate. There is general support for subsidising the additional cost of the long-form certificate and issuing it at the same cost as the short-form certificate. We consider that this is justifiable in the interest of candour.

We recommend that upon registration of an adoption order, an adopted person automatically be provided with two birth certificates, a post-adoption birth certificate that only shows the adoptive parents, and a full birth certificate that lists all details of the person's birth and subsequent adoption.

We recommend that access as of right to the full birth certificate be restricted to the persons named on the certificate. Others must establish that they have the adoptee's permission or that the adopted person is dead, or must demonstrate to the Family Court that they have sufficient and proper personal interest in seeking access. [503]

Adult Adoption Information Act 1985 vetoes

483 We observed in paragraph 468 that birth parents who

gave a child up for adoption before 1985, and adopted persons, may veto access to the original birth certificate and identifying information. Vetoes must be renewed every 10 years after they are placed or they will expire. In 1986, after the introduction of the Adult Adoption Information Act, birth parents and adoptees placed 3730 vetoes. In 1996, only 489 of the 3730 vetoes due for renewal were renewed. The rate at which new vetoes are being placed has slowed remarkably.

484 Vetoes have declined in significance over the last 10 years, and will continue to do so. However, for those who have placed vetoes, the issue is extremely sensitive and of great importance.

485 We recommend that the new legislation provide transitional provisions to ensure the following:

- Vetoes that are in place should remain and the existing access to information provisions continue to apply.
- Birth parents and adopted persons who are currently entitled to place vetoes, but have not done so, will be given a limited opportunity to place a veto before the system changes.

We propose a three-year period after which no new vetoes may be placed (although existing vetoes can be renewed at 10-year intervals until the death of the veto placer).

486 We considered whether adoptees and birth parents who fall under the old system or the transitional system should have the option of converting information vetoes into non-contact vetoes. Non-contact vetoes allow access to information but would make it an offence for a person to contact someone who has placed a veto. Though these appear to have worked well in New South Wales, some people have expressed concern about criminalising conduct that would not otherwise be considered criminal. [504]

487 Although the current system of vetoes denies access to the information on the birth register, it does not prevent people affected by adoption seeking further information. Libraries around the country hold indexes to the Register of Births, Deaths and Marriages, and agencies such as jigsaw provide guidelines to assist those attempting to find adopted relatives or birth families. In many cases, there have been successful reunions despite a veto being placed. To introduce a system of non-contact vetoes would be to further restrict rights that currently exist. We therefore do not recommend introducing an option of converting information vetoes into non-contact vetoes.

Counselling

488 When an adoptee applies for access to his or her original birth certificate, [505] or where a birth parent applies for identifying information about her or his child [506] they must first be offered counselling before the application will be processed. [507] This requirement applies even in the case of an adoptee seeking a copy of the original birth certificate in circumstances where the adoptee may have always known the identity of the birth

parent(s) and simply wants a further copy of the original birth certificate. When the Adult Adoption Information Act 1986 was enacted there was no provision for post-adoption counselling of adopted persons and birth parents, and the concept of reunion between birth parents and adopted persons on such a scale was, to a certain extent, uncharted territory. The counselling provisions provided a service to such persons that had hitherto been unavailable, and reassured those with concerns about reunion that the issues would be handled with tact, sensitivity and an assurance that support would be available if required. We recommended in chapter 10 that post-adoption counselling should be made available to adoptees and birth parents. In light of this recommendation, and of the increasing acceptance of openness in adoption that has occurred over the past 15-20 years, the Commission does not consider that there needs to be separate provision for counselling for access to adoption information.

We do not recommend retention of sections 5(2)(a)-(d) and 6(a)-(d) of the Adult Adoption Information Act which provides separately for counselling prior to access to adoption information.

Access to Court and Social Welfare adoption records

489 The Family Court may allow the inspection of adoption records for the purpose of investigating any question as to the validity of the adoption order [508] or forbidden degrees of marriage, [509] for the purposes of the Adult Adoption Information Act, [510] for matters relating to the administration of an estate, [511] and to enable evidence to be gathered for a prosecution for making a false statement. [512] Otherwise a person must apply to the Family Court using section 23 of the Adoption Act to gain access to adoption records. [513]

Most persons applying to inspect adoption records do so on the basis that there are “special grounds”. However, the approach to what constitutes “special grounds” taken by Family Court judges differs markedly throughout the country, with some judges applying a very rigid test and others construing the phrase liberally. Those that apply a rigid test usually refuse applications on the grounds that those seeking knowledge about their origins or the identity of relatives do not fit within the ambit of “special grounds”, as they are exhibiting a normal emotional response to adoption. [514]

A submission from National Archives has drawn to our attention a further issue. National Archives holds court records, Department of Social Welfare records and adoption records from private organisations dating back to the nineteenth century. [515] Section 20 of the Archives Act 1957 establishes a principle of availability of all records deposited in National Archives. The Act does not set out general criteria to govern access to records. Section 20 allows records to be deposited in Archives subject to conditions. However, the depositing department must justify its restriction. Any restrictions placed on a record must also take into account the Official Information Act 1982, the Privacy Act 1993, and any other specific legislative

provisions pertaining to the record deposited (for example, section 23 of the Adoption Act and the Adult Adoption Information Act). Under the current law National Archives can refuse to allow access to court records, [516] but the status of other adoption records [517] is unclear.

490 National Archives states that there is a legitimate community interest in adoption information which is not recognised by the current legislation. National Archives supports the principle that records should be available except where there is good reason to withhold the record. It favours opening all records to public research after a certain period [518] so that social science researchers and those seeking details concerning their family tree or whakapapa [519] can access such information. It believes that close consideration should be given to the question of who may access such records in order to provide sufficiently complete coverage of the situations where this may be appropriate.

Options

491 We have considered the following options:

- allowing full access to all adoption records; or
- restricting access to the parties involved and any person who can establish sufficient personal interest; or
- opening all records after a certain period of time and/or after the deaths of the parties involved.

Recommendations

492 Research [520] has indicated the benefit of openness of access to adoption information, and the submissions have overwhelmingly favoured open access to information. We consider, however, that access to this information should be provided on the same terms as access to the proposed long-form birth certificate.

We recommend that adoption records (including court records and Department of Social Welfare records) be open to inspection as of right by adoptees, adoptive parents and natural parents.

We recommend that persons who have permission from the adoptee or who can establish that the adoptee is dead, or who can demonstrate to the Family Court a sufficient and proper interest in inspecting such records, should be entitled to have access to adoption records.

We recommend that where a veto has been lodged under the Adult Adoption Information Act, that veto should be extended to restrict access to all adoption records (whether held by the court, the AISU, private agencies, or National Archives).

List of recommendations re Ch 16 Access to adoption information pp 224-225

We recommend that upon registration of an adoption order, an adopted person automatically be provided with two birth certificates, a post-adoption birth certificate that only shows the adoptive parents, and a full birth certificate that lists all details of the person's birth and subsequent adoption.

We recommend that access as of right to the full birth

certificate be restricted to the persons named on the certificate. Others must establish that they have adoptee's permission or that the adopted person is dead, or must demonstrate to the Family Court that they have sufficient and proper personal interest in seeking access. [602]

We propose a three year period after which no new vetoes may be placed (although existing vetoes can be renewed at 10-year intervals until the death of the veto placer).

We do not recommend retention of sections 5(2)(a)-(d) and 6(a)-(d) of the Adult Adoption Information Act which provides separately for counselling prior to access to adoption information.

We recommend that adoption records (including court records and Department of Social Welfare records) be open to inspection as of right by adoptees, adoptive parents and natural parents.

We recommend that persons who have permission from the adoptee or who can establish that the adoptee is dead, or who can demonstrate to the Family Court a sufficient and proper interest in inspecting such records should be able entitled to have access to adoption records.

We recommend that where a veto has been lodged under the Adult Adoption Information Act, that veto should be extended to restrict access to all adoption records, (whether held by the Court, the AISU, private agencies or National Archives).

NOTES

[488] The only exception is original birth certificates in the case of an adopted person.

[489] Sections 23, 24 and 76 Births, Deaths, and Marriages Registration Act; sections 3, 4, 5, 6, 7 and 11 Adult Adoption Information Act.

[490] Section 4 Adult Adoption Information Act.

[491] Section 8 Adult Adoption Information Act.

[492] Sections 3 and 7 Adult Adoption Information Act.

[493] See sections 5-17, 23-27, 28-33, 63-71 Births, Deaths, and Marriages Registration Act.

[494] Section 2 Births, Deaths, and Marriages Registration Act.

[495] Sections 23-27, 63 Births, Deaths and Marriages Registration Act.

[496] Sexual assignment occurs where a child of indeterminate gender is born and the doctors and parents have to make a decision (this may involve surgical intervention and hormonal treatment) as to what gender the child should be. The guardians of the child may seek a declaration from the Family Court that the child is a child of indeterminate gender, or they may nominate a sex for the child. See section 29 Births, Deaths, and Marriages Registration Act.

[497] Sections 28-33, 64 Births, Deaths, and Marriages Registration Act.

[498] Section 21 Births, Deaths, and Marriages Registration Act.

[499] Commonly referred to as the "scaling" of adoption records.

[500] Submission 1/41.

[501] See paragraphs 489-492 below relating to access to other adoption information.

[502] Subject to the same access restrictions as the long-form birth certificate.

[503] This test mirrors rule 66 of the High Court Rules, which

allows access to information held on court records. This test was favoured by the members of the Family Court bench and the Manager of AISU who attended the Adoption Symposium, as it allows more flexibility than a rigid prescription of categories of persons who may apply for access to information.

[504] For example, a birth mother who watches her adopted child from afar, but who does not identify herself to the child or make contact with the child, would be committing an offence.

[505] Section 4 Adult Adoption Information Act.

[506] Section 8 Adult Adoption Information Act.

[507] Sections 5(2)(a)-(d), 6(a)-(d) Adult Adoption Information Act.

[508] Section 23(3)(h)(ii) Adoption Act.

[509] Section 23(2) Adoption Act.

[510] Section 23(3)(a) Adoption Act.

[511] Section 23(1) Adoption Act.

[512] Section 23(3)(b) Adoption Act.

[513] The Adoption Act does not define "adoption records".

[514] *Re Adoption of S* [1996] NZFLR 552 (FC).

[515] Records deposited with National Archives are generally 25 years old, but more recent records may be deposited with the permission of the Chief Archivist.

[516] The limitations on access imposed by section 23 Adoption Act continue to bind National Archives (section 20(2) Archives Act 1957).

[517] For example, records held by CYFS or the private organisations that provide homes for unmarried mothers such as Bethany, which is run by the Salvation Army.

[518] At present, original birth certificates are available for search if all of the parties named on the certificate have died or if 120 years have elapsed, section 76 (3)(d)-(e) Births, Deaths, and Marriages Registration Act.

[519] Under our proposed system for access to records, such persons would fall within the description of "persons with a genuine or proper interest".

[520] For a discussion of the benefits of openness in adoption see paragraphs 78-85.

[602] This test mirrors r 66 HCR. This test was favoured by the members of the Family Court bench and Social Welfare who attended the Adoption Symposium, as it allows more flexibility than a rigid prescription of categories of persons who may apply for access to information.

Source Law Commission Report No 65 'Adoption and Its Alternatives' A Different Approach and a New Framework.' September 2000. Chapter 16 "Access to information" Clauses 144-146, 467-492 pp60,168-178.

REGISTRAR -GENERAL'S ADOPTION RECORDS

Date from 1915

From 1881-1915 adoption records were held at the Court where the adoption took place. From 1908 the Special Division of the Education Department received basic details from Courts on new adoptions. The central registration of adoptions only began with the passing of the Births and Deaths Registration Amendment Act 1915.

Birth entry and birth certificate

When a child's birth is registered with a Registrar of Births and Deaths, it is called the 'birth entry'. When a certified copy of the 'birth entry' is issued, it is called a 'birth certificate'. An adopted persons **original birth certificate** is a certified copy of their original birth entry with birth names. The adopted persons **current birth certificate** is a certified copy of their re-registered birth entry in adoptive names. *Birth Certificate* "means a document (a) Issued by, and signed or sealed by or stamped with the seal of, a Registrar; and (b) Containing registered birth information;- and, in relation to any person, means a birth certificate containing registered birth information relating to the person's birth:" Births, Deaths, and Marriages Registration Act 1995 s2. *Original birth certificate* means the first birth certificate for an adopted person which has their first name on it and the names of their birth parent(s).

1915 Re-registration of adoptee birth entry

When the Births and Deaths Registration Amendment Bill 1915 was debated in the House, Mr Lee (Oamaru) proposed a totally new clause be added to the Bill. When an adoption took place the adoptee's birth was to be re-registered in the adoptive parents names and the adopted persons new names. A certified copy of the re-registered entry would be issued as a new birth certificate to adopted persons

Parliamentary Debate

Mr E P Lee (Oamaru) House. "What I ask the minister to do is to make provision that upon the adoption the Registrar may be ordered to alter the child's name in the register, and also add the first or Christian names if none have been inserted at the time of the registration of the birth of the child. Any certificate issued after the alteration should not show the alteration; in fact, the register should be in the form it would have been if the adopting parents were the natural parents of the child. The reason is that in future years a child that has been adopted may apply for a certificate of birth, and instead of getting a certificate in its legal name the certificate in the wrong name- namely, that of the child's mother: and a certain amount of stigma exits in getting a certificate in another name than the legal one."

Mr R A Wright (Wellington Suburbs) "Children of illegitimate birth who have been adopted have no right to have any stigma cast upon them..."

Mr G Witty (Riccarton) "If something of the kind suggested were done it would take away a stigma from many children - a stigma under which they lie through no fault of their own." NZPD House 26/8/1915 Vol.173 pp164-5

To avoid stigma of illegitimacy

This was the stated purpose of the legislation. It was never intended as a means of concealing truth of origins from the adoptee but to provide a 'clean certificate' in the new adoptive names to avoid embarrassment to the adoptee. Prior to 1915 the only birth certificate of an adoptee was their original one with birth and birthparents names. The proposal became s8 of the Births and Deaths Registration Amendment Act 1915. Since 1915 all adopted persons have two birth entries, the original, and the re-registered entry.

Statutes

Registration of adoptions

1915 Births & Deaths Registration Amendment Act "s8 (1) Whenever an order of adoption is made under Part III of the Infant's Act, 1908, it shall be the duty of the Clerk of the Court by which such order was made forthwith to send to the Registrar-General notice, in the prescribed form, setting forth the following particulars so far as they are known to the Court: (a) The full name of the child as before the making of the order; (b) The date and place of birth of the child; (c) The sex of the child; (d) The names, address, and occupation of the natural parents of the child; (e) The name or names and the occupation and address of the adopting parent or adopting parents. (f) The name of the Judge by whom the order of adoption was made, and the date of the order; and (g) Such other particulars as may be prescribed.

(2) On receipt of such particulars the Registrar-General shall, if the duplicate of the entry as to the birth of the child has been transmitted to him pursuant to section twelve of this principal Act, forthwith note and sign on such duplicate a memorial in the following Form-

"Order of adoption of [*Name of child*], dated the... day of...19...made by [*Name of Judge*] in favour of [*Name or names, address, and occupation of adopting parent or adopting parents*]"

(3) The Registrar-General shall in every case forthwith send to the Registrar by whom the birth was registered a copy of the notice received by him from the Clerk of the Court; and the Registrar shall forthwith note and sign on the original entry as to the birth of the child, and on the duplicate entry in cases where the duplicate has not been transmitted to the Registrar-General, a memorial in the form prescribed by the last preceding subsection; and shall also re-register, in duplicate, particulars as to the birth of the child, substituting the name by adoption for the natural name of the child, and substituting particulars as to the adopting parent or parents for particulars as to the natural parents; and shall transmit the duplicate of such entry to the Registrar-General as if it were a duplicate of an entry made by him pursuant of section eleven of the principal Act.

(4) When ever a copy of the entry as to be birth of any child to whom this section relates is required for any purpose the Registrar or the Registrar-General, as the case may be, shall supply a copy of the entry made in pursuant to the last preceding subsection in lieu of a copy of the original entry unless the applicant certifies that the particulars recorded

in the original entry are material for the purpose for which the copy is required.

(5) Nothing in this section shall be deemed to dispense with the obligation to register the birth of any child in the manner prescribed by the principal Act.

(6) The foregoing provisions of this section, relating to the registration of particulars as to adopted children, shall apply in the case of children in respect of whom orders of adoption under Part III of the Infants Act 1908, or the corresponding provisions of any former Act have been made before the passing of this Act if the Registrar-General is satisfied, by certificate made under the hand of the Clerk of the Court or otherwise, as to the truth of the particulars required to be registered.” Repealed and consolidated in Births and Deaths Registration Act 1924 s27

1924 Births Deaths Registration Act s27

amends Sub section 8(4) of Births and Deaths Registration Amendment Act 1915. The words “unless the applicant certifies that the particulars recorded in the original entry are material for the purpose for which the copy is required.” are replaced with, “unless the applicant certifies, and the Registrar or the Registrar-General is satisfied, that the particulars recorded in the original entry are material for the purpose for which the copy is required.” Apart from Magistrates replacing Judges in adoption hearings, the above was the only significant change contained in the 1924 consolidation in s27 of the 1915 Amendment regarding Registration of adoptions.

1995 Births, Deaths, and Marriages Registration Act Part IV Adoptions. s23 Registrar-General to be notified of New Zealand adoptions—

Forthwith after the making of an adoption order under the Adoption Act 1955, the Court concerned or its Registrar shall give the Registrar-General notice of the following matters (so far as they are known to the Court): (a) The names (if any) of the adopted person immediately before the making of the order: (b) The names conferred on the person by the order: (c) The names of the persons who were the person’s parents immediately before the making of the order: (d) Whether or not the adoptive parent or parents want the words ‘adoptive parent’ or ‘adoptive parents’ to appear on the face of birth certificates relating to the person: (e) The date of the order: (f) The name of the Court: (g) Those matters required by the form prescribed for the purposes of section 11 of this Act (which relates to the notification of births) that would have been appropriate if the adopted person had been born to the adoptive parent or parents: (h) Any other matters prescribed.” Cf 1951 s21(1)

s24 Registration of New Zealand adoptions—

(1) On receiving— (a) Notice under section 23 of this Act or section 21 of the Births and Deaths Registration Act 1951 relating to the adoption of; or (b) Notice of the adoption under a former Adoption Act of a person whose birth has been registered, the Registrar-General shall forthwith cause the information it contains to be included in the registration. (2) On receiving— (a) Notice under section

23 of this Act or section 21 of the Births and Deaths Registration Act 1951 relating to the adoption of; or (b) Notice of the adoption under former Adoption Act of- a person whose birth has not been registered, the Registrar-General shall, if satisfied of the correctness or likely correctness of the information relating to the date and place of the person’s birth, forthwith record the information it contains as if the person’s birth is registered and the information is included in the registration. (3) On the application of the adoptive parent or parents of an adopted person who has not attained the age of 18 years or earlier married (with the consent of the adopted person, in the case of an adopted person who has attained the age of 16 years), or the survivor of them, or on the application of an adopted person who has attained the age of 18 years or married, the Registrar-General shall cause to be included in the registration of the adopted persons’ birth (a) Notice of whether or not the words ‘adoptive parent’ or ‘adoptive parents’ should appear on the face of birth certificates relating to the adopted person; or (b) Subject to section 82 of this Act, additional information relating to the birth. 31/3/1995 In force 1/9/1995 Cf 1951 ss21- 24

Re-registration adoptees not born in New Zealand 1943 Statutes Amendment Act s1-3

The Act provides for the birth re-registration of children adopted in New Zealand but not born here. These children can now be re-registered in the same way as adoptees born in New Zealand. Can also apply to adoptions under any former New Zealand Adoption Acts. Addition to the Births and Deaths Registration Act 1924. Repealed by Birth and Deaths Registration Act 1951 s53 became s21(5) of that Act.

Registration of adoptions made overseas 1961 Births and Deaths Registration Amendment Act s5

“Where any person whose birth is registered in New Zealand has been adopted in any place outside New Zealand, the Registrar-General shall (a) If he is satisfied that the adoption is one to which section 17 of the Adoption Act 1955 applies; and (b) If he receives such particulars as he requires and is satisfied by statutory declaration or such other evidence as he deems sufficient as to the correctness of those particulars.; direct that the provisions of subsections (2) to (4) and subsections (6) to (8) of section 21 of this Act shall apply to that adoption, with all necessary modifications, as if that person had been adopted under an adoption order made under the Adoption Act 1955.” Became addition s21A to the Births and Deaths Registration Act 1961 Reprint.

1995 Births, Deaths, and Marriages Registration Act Part IV Adoptions. s25 Registration of overseas adoptions

If the Registrar-General (a) Is satisfied that section 17(1) of the Adoption Act 1955 applies to the adoption outside New Zealand of a person whose birth is registered; and (b) Has received any particulars the Registrar-General requires for the purpose, and is satisfied that they are or are likely to be

correct, the Registrar-General may direct that section 24 of this Act should apply to the adoption; and in that case that section and section 27 of this Act, with any necessary modifications, shall apply as if the adoption had been effected by an adoption order under the Adoption Act 1955. Cf 1951 s2.

s26 Registrar-General may supply adoption information to registration authorities overseas if satisfied that (a) An authority constituted in a state outside New Zealand has the function of recording information relating to births within the state; and (b) A person who has been adopted in New Zealand was born in the state; and (c) The authority has so requested, the Registrar-General may supply to the authority any information relating to the adoption. 31/3/1995 In force 1/9/1995.

Re-registration of Maori adoptions

1951 Births & Deaths Registration Act Part III “s22 (1) Where an adoption order is made under Part III of the Infants Act 1908 [Later amended to Adoption Act 1955 s29], for the adoption of a Maori child, the re-registration of the birth of the child shall be effected in accordance with section twenty-one of this Act, and the provisions of that section, as far as they are applicable and with the necessary modifications, shall apply in all respects as if the child were a child born of European parents. (2) Where an adoption is made pursuant to Part IX of the Maori Land Act 1931 [later amended to Adoption Act 1955 s29] in respect of a child of Maori descent who is not a Maori, re-registration of the birth of the child shall be effected in accordance with the regulations under this Act for the time being in force relating to the registration of adoptions of Maoris adopted under the Maori Land Act 1931, and the provisions of any such regulations, as far as they are applicable and with the necessary modifications, shall apply as if the child were a Maori.” Note SR1947/35 Registrar to notify the Registrar-General of adoption orders.

Variation, reversal or discharge of adoption order

Provisions for amending adoptees birth registration documentation in cases where an adoption order has been reversed or discharged. Details are found in the Births & Deaths Registration Act 1951. Part III Sections 23 (1-3).

1995 Births, Deaths, and Marriages Registration Act Part IV Adoptions.

s27 Variation or discharge of adoption order (1) Subject to subsection (2) of this section, forthwith after the variation or discharge of an adoption order under the Adoption Act 1955, the Registrar of the Court concerned shall send a copy of the order to the Registrar-General, who shall cause to be included in the registration of the birth of the person to whom the adoption order related particulars of the variation or discharge including (where appropriate) a name or names for the person. (2) The Registrar-General may, if it seems expedient to do so, treat any order varying any adoption order as if it is a further adoption order; and in that case section 24 of this Act shall apply accordingly. 31/3/1995. In force 1/9/1995. Cf 1951 s23.

Contents Registrar-Generals adoption records Original birth entry

Full birth name, place and date of birth of the adoptee child. Full names of birth parents, occupations and address. Name of informant. In the case of an exnuptial child, details of the birth father are normally omitted. Also address of birth parents may be just a town, with no street.

Current adoptee birth entry

Full names of adoptive parents, occupation, address, maiden surname of adoptive mother. From 1962 includes adoptive parents age at time of the adoption, and birthplace. The Adoptee: Full new name, sex, place and date of birth. Has endorsed on master copy ‘Adopting Parents’, Adoption Act, Court and date of Adoption Order. The words “Adoptive parents”, Court and date of adoption order are often omitted from copies issued after 1962, but original may be inspected at the Registrars Office.

District Registrars records

The District Registrar maintains adoption records as above for the District. To sum up: District Registrars of Births Deaths since 1916 maintained District Adoption Records. The Registrar-General has copies from all District entries and maintains a National Adoption Register.

Registration of Maori births 1913-1961 see Maori Adoption Section pXXX

Court records 1881-1915 In 1941 these records were transferred to the Registrar-General. All Court records prior to 1916 are now at the Registrar-Generals office.

Registrar-General’s address Records are kept at 191 High Street, Lower Hutt. A public counter is open 9am-4pm Monday to Friday except public holidays. Fees are charged for inspection and copies.

Access to Registrar-General’s adoption records

General provisions for searching

1875 Births and Deaths Registration Act “s39 Searches of register books and certified copies:- Every Registrar who shall have the keeping for the time being any register book of births or deaths shall, at all reasonable hours on every day except Sundays, Christmas Day, Good Friday, and public holidays, allow searches of any Register Book in his keeping to be made, and shall if called upon to do so give a copy, certified under his hand, of the entry of any birth or death registered him...

s40 General Registry indexes The Registrar-General shall cause indexes of the certified copies transmitted to him by the Registrars according to the provisions of this Act to be made and kept in his office, and shall permit any person demanding to do so to search any such index, and to have a copy, certified under the Registrar-General’s hand, of any entry of a birth or death duly returned and certified to him by any Registrar.” [Repealed and consolidated by Births and Deaths Registration Act 1908 s40-41]

1908 Births and Deaths Registration Act “s40(1)

Searches of register and certified copies:- Every Registrar who has in his keeping for the time being any register-book of births or deaths shall, at all reasonable hours on all days except Sundays and public holidays, on payment of the appropriate fee, allow searches of any such register-book to be made, and shall, if called upon to do so, give a copy, certified under his hand, of the entry of any birth or death registered therein...

s41(1) “General Registry indexes The Registrar-General shall cause indexes of the certified copies transmitted to him by the Registrars under this Act to be made and kept in his office, and shall permit any person on payment of the appropriate fee to search any such index, and to have a copy, certified under the Registrar-General’s hand, of any entry of a birth or death duly returned and certified to him by any Registrar.” [Repealed and consolidated by Births and Deaths Registration Act 1924 s44-45]

1924 Births and Deaths Registration Act “s44(1)

Searches of register and certified copies:- Every Registrar who has in his keeping for the time being any register-book of births or deaths shall, at all reasonable hours on all days except Sundays and public holidays, on payment of the appropriate fee, allow searches of any such register-book to be made, and shall, if called upon to do so, give a copy, certified under his hand, of the entry of any birth or death registered therein or a certificate in the prescribed form of the date of any birth or death...

s45(1) “General Registry indexes- The Registrar-General shall cause indexes of the certified duplicates transmitted to him by the Registrars under this Act to be made and kept in his office, and shall permit any person on payment of the appropriate fee to search any such index, and to have a copy, certified under the Registrar-General’s hand, of any entry of a birth or death duly returned and certified to him by any Registrar, or a certificate in the prescribed form of the date of any birth or death.” [Repealed & replaced Births and Deaths Registration Act 1951 ss38-39]

1951 Births and Deaths Registration Act “s38

Searches of register and certified copies- Every Registrar who has in his keeping for the time being any register book of births or deaths shall, upon request, cause a search of any such register book to be made, and shall permit any person to inspect any entry and to have a copy, certified under his hand, of the entry of any birth or death registered therein or a certificate in the prescribed form of the date of any birth or death.

s39 “General registry indexes- The Registrar-General shall cause indexes of the certified duplicates transmitted to him by the Registrars under this Act to be made and kept in his office, and shall, upon request, cause a search to be made of any such index or of any register kept by him, and permit any person to inspect any entry and to have a copy, certified under his hand or under his seal, of any entry of a birth or death duly returned and certified to him by a Registrar or included in any register by the Registrar-General under this Act, or a certificate in the prescribed form of the date of any birth or death.”

1995 Births, Deaths, and Marriages Registration Act Part IX Searches.

s73 Searches of Registrars’ records Subject to subsection 75 to 78 of this Act, upon request and upon payment of the prescribed fee or fees, a Registrar shall (a) Cause a search to be made of all registered information that is recorded on a computer system accessible to the Registrar: (b) Provide any person with a printout of any such information: (c) Cause to be made a search of documents (other than indexes) held in the Registrar’s office containing information at any time recorded under this Act or a former Act: (d) Permit any person to inspect any such document: (c) Provide any person with a copy of any such document. 31/3/1995 In Force 1/9/1995 Cf 1951 s38

Public access to Indexes**1875-1951**

All Birth, Marriage and Death Registry Indexes were open to public search.

1951-1994

The Indexes no longer open to public search. The Registrar-General “shall upon request, cause a search to be made”* ie., his staff make the search. *Births and Deaths Registration Act 1951 s39.

1995-2003> Indexes of Births, Deaths and Marriages are now open to public search, and are available in some public library genealogical archives. However, an adoptee would need to know their birthmothers name to locate their original birth on the index. Contact the Genealogical Society, or the Morman Church for details. As at 1996 the following indexes are available:— Births 1884-1970; Marriages 1840-1970; Deaths 1848-1970.

No searching of adoptee original birth entry

The Births and Deaths Registration Act 1951 ss38-39 give what *appears* to be an absolute right to inspect or obtain a copy of any birth entry. However section 38 and 39 must be read in the context and restrictions in section 21(6-7) of that Act. These restrictions apply specifically to adoptee original birth entries.

1951 Births and Deaths Registration Act

s21(6) “Where a copy of the entry as to the birth of any child to which this section relates is required for any purpose, the Registrar-General or the Registrar, as the case may be, shall supply a copy of the last entry made pursuant to subsection (3) of this section instead of a copy or any former entry, unless the applicant certifies, and the Registrar-General *is satisfied*, that the particulars recorded in the original or any former entry are material for the purpose for which the copy is required.

21(7) “No person shall be permitted to inspect any such original or former entry, unless the person certifies, and the Registrar-General *is satisfied*, that the particulars recorded in the original or any former entry are material for the purpose for which the inspection is required.” [S21(6) Refer (As from 1/9/86) to the Adult Adoption Information Act 1985 s5 as to certificates for persons adopted before the commencement of that Act not withstanding this subsection]

1969 Births and Deaths Registration Amendment Act

Registration of adoptions.

“s3(1) Section 21 of the principle Act [1951] (as substituted by section 4(1) of the Births and Deaths Registration Amendment Act 1961) is hereby amended (a) By omitting from subsection (7), and also from subsection (8), the words “or the Registrar is satisfied”, and substituting in each case the words “is satisfied”: (b) By adding to subsection (7) the words “and that the supply of a copy of the original or any former entry would not be a contravention of the principles set out in section 23 of the Adoption Act 1955”: (c) By adding to subsection (8) the words “and that the inspection would not be a contravention of the principles set out in section 23 of the Adoption Act 1955”.

(2) Section 21 of the principle Act is hereby further amended by adding the following subsection: “

(9) **In case of a dispute** as to whether a person should be supplied with a copy of the original or any former entry pursuant to subsection (7) of this section or permitted to inspect any such original or former entry pursuant to subsection (8) of this section, the Registrar-General shall, upon that person's request, submit the matter to a Magistrate, whose decision shall be final.” Note it must be the Registrar-General that takes action- not a District Registrar.

1995 Births, Deaths, and Marriages Registration Act

Part IX Searches

s74 Registrar-General's indexes

(1) The Registrar-General shall maintain indexes of (a) All registered information that is recorded on a computer system; and (b) Documents containing information recorded under this Act or any former Act (including documents sent to the Chief Archivist).

(2) Upon request and payment of the prescribed fee or fees, the Registrar-General shall—(a) Provide any person with a printout of all or any part of any index (other than an index relating to adoption, sexual assignment or reassignment in respect of which information has been recorded under this Act, or the names of people to whom section 65* of this Act applies or at any time applied) (i) Maintained on a computer system; or (ii) Maintained in documentary form under subsection (1) of this section or an equivalent provision of a former Act, and subsequently recorded on a computer system; or (b) Provide any person with a copy of all or any part of any copy prepared by or under the control of the Registrar-General of an index, (other than an index relating to adoption, sexual assignment or reassignment in respect of which information has been recorded under this Act, or the names of people to whom section 65* of this Act applies or at any time applied) maintained in documentary form under subsection (1) of this section or an equivalent provision of a former Act. *Section 65 protection of certain witnesses etc.

s75 Searches to be made in respect of named persons only

(1) Except when acting under section 74(2) of this Act, no Registrar shall cause a search of any information or document to be made, or permit the inspection of any document, or provide any person with a printout of any information or

a copy of any document, unless— (a) A request for that information has been made, in a manner for the time being approved by the Registrar-General, in respect of a named person; and (b) The prescribed fee has been paid; and (c) The information or document is or contains information relating to the registration of the named person's birth, death, or marriage, or references to such information.

(2) If satisfied in respect of a search otherwise forbidden by subsection (1) of this section that (a) It will be conducted for a person acting on behalf of a Government agency or a body or person undertaking the gathering of statistics, or genuine health or demographic research; and (b) Information relating to particular individuals is not sought and will not be retained; and (c) It is in the public interest, the Registrar-General may in the Registrar-General's absolute discretion direct a Registrar to allow it.

(3) If satisfied that a search is desirable to verify (for the purposes of section 76(3)(d) of this Act) the death of any person, (a) A Registrar may, on payment of the prescribed fee, cause it to be made in respect of that person's status as the adoptive or natural parent of a named adopted person; but (b) The Registrar shall not permit the inspection of any document relating to the person, or provide a printout of any information or copy of any document, except in accordance with subsection (1) of this section. 31/3/1995 In Force 1/9/1995

1995 Restrictions on searches relating to adopted persons

Births, Deaths and Marriages Registration Act 1995 s76

(1) This section applies to information if (a) It relates to an adopted person; and (b) It was recorded under section 24 or section 25 of this Act, or a corresponding provision of a former Act.

(2) No person other than the Registrar-General shall permit a person to inspect any document containing information to which this section applies, or provide any person with a printout or copy of any such document or a printout of any such information.

(3) The Registrar-General may permit a person to inspect any document containing information to which this section applies, or provide any person with a printout or copy of any such document or a printout of any such information, if satisfied (a) That (i) The person wishes to inspect the document or have the printout or copy for a purpose in connection with the administration of an estate or trust; and (ii) The person is executor, administrator, or trustee of the estate or trust; and (iii) The information is material for the purpose or (b) That (i) The person wishes to inspect the document or have a printout or copy for the purposes of investigating forbidden degrees of relationship under the Marriage Act 1955; and (ii) The person is a Registrar or celebrant; or (c) That section 11(4)(b) of the Adult Adoption Information Act 1985 so authorises (but in that case shall permit it to the extent that the said section 11(4)(b) so authorises; or (d) That the adopted person concerned, the adoptive parents, and such of the adopted person's natural parents as had information relating to them recorded under this Act or a former Act as part of the information relating

to the adopted person's birth, are all dead; or (e) That 120 years has passed since the birth of the adopted person concerned.

(4) Except as provided in subsection (3) of this section, the Registrar-General shall not permit a person to inspect any document containing information to which this section applies, or provide any person with a printout or copy of any such document or a printout of any such information, except on the order of a Family Court, District Court, of the High Court, made (a) For the purposes of a prosecution for making a false statement; or (b) In the event of any question of the validity or effect of any interim order or adoption order; or (c) On any other special ground. 31/3/1995. In Force 1/9/1995 Cf 1951 s21(8)(9)

Copies adoptee original birth entry

1881-1915

Anyone could obtain a copy of any adoptees original birth entry- with birth names and birth parent names. It was the only valid birth certificate of adoptees.

1915-1924

In 1915 provision was made for re-registration of adoptee births. Henceforth, on the making of an Adoption Order, the Court, notifies the Registrar-General who re-registers the birth entry and issues of new amended birth certificate, in the adoptees new names and adopting parents names substituted for the original birth parents names. Births and Deaths Registration Amendment Act 1915 s8. Copies of the adoptees original birth certificate could be obtained by any person certifying "that the particulars recorded in the original entry are material for the purpose for which the copy is required." Births and Deaths Registration Amendment Act 1915 s8(4). The Registrar had no power to refuse the issuing of a copy provided a certifying reason was given. The legislation did not block adoptees obtaining a copy for their own use. The purpose of the Act section 8 is clearly stated in the House Debate- to reduce the adoptees exposure to the 'stigma' of illegitimacy. It's intent was to protect the adoptee, not to conceal the truth from them.

1924-1950

Added proviso, the Registrar "must be satisfied, that the particulars recorded in the original entry are material for the purpose for which the copy is required." Births and Deaths Registration Act 1924 Sec.27(4) Provided the particulars were clearly required for the stated purpose a copy would be issued.

1950-1969

The Statutes Amendment Act 1950 s(5)(c) adds the word 'may.' "The Registrar 'may' issue." The word 'may' grants discretionary powers to the Registrar. The Registrar now has power to refuse the issue of a copy even if normal certifying purpose criteria have been met.

1969-1985 The Registrar may not issue any copy of an adoptees original birth certificate if it "be a contravention of the principles set out in section 23 of the Adoption Act 1955." Birth and Deaths Registration Amendment Act 1969 No.68 s3(b). The issuing of copies is now clearly restricted by the Adoption Act 1955 s23. The Registrar

may issue copies to applicants provided they have met the standard of criteria as would be required by the Court as per Adoption Act 1955 s23.

1985-2003> The Adult Adoption Information Act 1985 now makes provision for adult adoptees to obtain a copy of their original birth entry.

1995 Births, Deaths, and Marriages Registration Act Part VIII Certificates.

s63 Birth certificates for adopted persons

(1) Except as provided in section 11(4)(a) of the Adult Adoption Information Act 1985, no birth certificate shall be provided in respect of an adopted person unless it has been requested- (a) By reference to the names most recently included in the registration of the person's birth under section 24 or section 25 of this Act, or under a corresponding provision of a former Act (not being names derived from an adoption that has been discharged); or (b) By reference to a name or names later recorded for the person under section 20 or section 21 of this Act, or a corresponding provision of a former Act.

(2) Except as provided in the Adult Adoption Information Act 1985, a birth certificate provided in respect of a person in respect of whom information (not being information derived from an adoption order that has been discharged) has been recorded under section 24 or section 25 of this Act, (a) Subject to paragraph (b) of this subsection, shall contain the information that such a certificate would contain if the adoptive parents by whom the person was most recently adopted (otherwise than under an adoption order that has been discharged) were the person's biological mother and father, and name of names recorded under that section had been recorded as information relating to the person's birth; and (b) Shall state that those adoptive parents are or are not adoptive parents according to the information in that behalf most recently recorded under section 24 of this Act or a corresponding provision of a former Act; and (c) Shall contain no other information. 31/3/1995 In force 1/9/1995 Cf 1951 s21(7)

Inspection of adoptee original birth entry

1881-1951

Any person could inspect any adoptees original birth entry and thus obtain any information contained in the entry. There were no restrictions on 'inspection' of the original birth entry.

1951-1969 Inspection only if a special purpose is stated, and the original entry is required for the purpose. "No person shall be permitted to inspect any such original entry, unless that person certifies, and the Registrar- General or the Registrar is satisfied, that the particulars recorded in the original entry are material for the purpose for which the inspection is required." Birth and Deaths Registration Amendment Act 1951 Sec.21(7). cf Birth and Deaths Registration Amendment Act 1961 s4/21(8)

1969-2003>

Restrictions made same as for obtaining copies of adoptees original birth entry. The Births & Deaths Registration

Amendment Act 1969 s3(c) adds the words “and that inspection would not be a contravention of the principals set out in section 23 of the Adoption Act 1955” to the Birth & Deaths Registration Amendment Act 1961 s4/21(8).

Short form birth certificates

Available since 1953, abbreviated version. “39A Shortened forms of birth certificates- (1) Every certified copy of an entry of a birth or death under section 38 or section 39 of this Act shall be in the prescribed form. Any such form shall include only such particulars, and shall be used in such circumstances, as may be prescribed. (2) Every such certified copy made in a prescribed form shall, if otherwise correct, be deemed to be a true copy of the original entry in the register, notwithstanding that the prescribed particulars do not include all the particulars in the original entry”. Note: This section was inserted as s39A into the Births and Deaths Registration Act 1951, by Births and Deaths Registration Amendment Act 1953 s3.

Case law access to original birth entry

In 1984 an adoptee, M.J. Burkinshaw, took a case to the District Court, Lower Hutt, re refusal of the Registrar-General to allow him to inspect his original birth entry. The Judge found in favour of the Registrar General, and that the law on the matter was unambiguous. 15/51984

Mr Burkinshaw based part of his case on United Nations Covenants of which New Zealand is a signatory. From his studies, legal opinions, and Australian Human Rights Commission papers it was claimed that the restrictions on an adoptee obtaining their original birth entry are in breach of Articles 2,3, and 26 of the International Covenant of Civil and Political Rights. The main ground is discrimination because of status. Adoption is a status and because of that status they are prevented from exercising the right of all other citizens to inspect and obtain copies of their original birth entry. The New Zealand Government ratified the Covenant on 12th November 1968, and “undertakes faithfully to observe all its provisions and to carry out the stipulations therein.”

UN Declaration of the Rights of the Child

[Note this refers to ‘Declaration of the Rights of the Child’ passed by UN 20/11/1959, not to be confused with ‘United Nations Convention on the Rights of the Child’ 1989.] Principal 3 “The child shall be entitled from his birth to a name and a nationality.” Principle 1 “The child shall enjoy all the rights set forth in this Declaration. Every child, without exception whatsoever shall be entitled to these rights, without distinction or discrimination on account of...birth or other status.” Therefore it can be claimed an adoptee should have access to their birth name, as its the name they had from birth. At the 909th Meeting re Principle 3, the New Zealand delegation supported wholeheartedly- “Every child was entitled to know who his parents were and whether he was legitimate or illegitimate.”

Statutes revision committee 1981

I first raised the issue of adoption and the UN Declaration of the Rights of the Child, principles 1 and 3 in a submission to the Statutes Revision Committee, Adult Adoption Bill 1981. The Minister of Justice, and his legal advisor rejected this outright on the grounds that adoption was not a considered factor in the formation, debate or intention of principle 3. Fortunately I had taken the precaution of having with me photo copies of UN committee minutes, detailing the adoption aspects of the debate.

Answers examined

A simple answer was, that Principle 3 had been fulfilled. The then Minister of Justice, Geoffrey Palmer, on 5th October 1984 in reply to Mr Burkinshaw, dismissed the argument that an adoptee has a right of access to their birth name. The UN convention requires they be given a name from birth, this we do, that fulfils the law, and no such right of access to the name is given or needed to fulfil the Declaration.

I then consulted David Loyd-Jones, an expert in International Law at Cambridge Law School, England: He made three brief points:

1 The primary issue is the ‘rights of the child’, not the rights of adoptive parents, birth parents, authorities or any other person. The ‘right’ belongs to the child.

2 To claim the child has a right, but in effect is not allowed to ‘possess’ that right; or to claim that fulfillment of the right by another person can thus deny the child to have access to whatsoever has been done on their behalf in exercise of the ‘rights of the child’ is hardly a valid interpretation.

3 Any interpretation of Principle 3 need give full consideration to the effect of Principle 1, along with Article 30 of the Universal Declaration.

Second simplistic answer

Minister of Justice, -same letter. The same Statute applies to adoptees and non adoptees alike “there is no discriminatory effect in the way the law is applied.”

However, it is obvious that while all non-adopted persons can search there original birth entry of right, Births and Deaths Registration Act 1951 ss38-39, adoptees are explicitly denied this right because of their adoptive *status* by s21(6). cf Births and Deaths Registration Amendment Act 1969 s3(b). The discrimination on grounds of *status* is thus clear and unequivocal.

Australian contrast

Australian authorities did their homework, and their Human Rights Commission produced a major 1984 paper. They found some important aspects of their adoption laws were in breach of some UN conventions and recommended changes. New Zealand lacked any similar in-depth study.

Significant progress

The issue has been partially redressed by the Adult Adoption Information Act 1985. However, some important discriminations due to adoptee status remain. Forbidden

marriage double degrees, non-access to original birth entry by persons under 20, veto provisions, all include discrimination on grounds of legal status, in breach of some UN Conventions. Some aspects of our Statute and practice concerning persons conceived by donor insemination may also be in breach of UN Conventions

Further detail

see Conventions pp214-220C- Conventions v New Zealand Statute. Interpreting ambiguous law. United Nations Convention on the Rights of the Child 1989, Hague Convention 1993. Intercountry adoption pp246-262B,

Adoptees inspecting current birth entry

Adoptees are entitled to inspect their current birth entry on the same grounds as any other citizen, it is a right. Anyone can know if they are adopted. Since 1915, the date, court and Judge are endorsed on an adoptees current birth entry.

Note However, with adoptions made after 21st June 1962 the adoptive parents may request, the words "adoptive parents" do not appear on copies issued of the adoptees birth entry. Adoption Rules 1962/91 New Form No.1. *Gazette* 21/6/1962. However, the endorsement "adoptive parents" is open to inspection on the adoptees current birth entry, by any person, at the Registrar-Generals office.

Issue of words 'adopting parents,'

Being included on copies of full birth certificates. Birth and Deaths Registration Act 1951, 1st Schedule Form 1. "Note- In entries made pursuant to section twenty one, insert in column (6) the words 'adopting parents' and in column (8) the words 'This entry is made under the authority of section twenty-one of the Births and Deaths Registration Act 1951.'" Thus if a person is adopted the words 'adoptive parents' are to be *inserted* in the parent column 6. From 1962 all new adoptee re-registered birth certificates, the words 'adoptive parents' are on the birth entry but omitted from copies issued unless the adoptive parents requested their inclusion at time of registration. The issuing of copies of persons adopted before 21st June 1962 should still contain these words if a *full* copy has been requested. As from 1953 the Registrar-General can issue 'Shortened Form birth certificates', not all particulars are included, so it is necessary to ask for a *full* copy. To remove the information 'adoptive parents' in column 6 on full copies of entries prior to 21st June 1962, would mean it is not a full certified copy of the information in column 6.

The Judge in the Burkinshaw 1984 case raised concern re lack of status notation on copies of birth entries. Likewise the Ombudsman at the absence of adoptive status on certified copies. Ref 18531. 15/6/1983. He gave serious consideration to recommending law changes to insure adoptive status appeared on copies issued. He only deferred on the matter because the action might be taken as influencing the debate on the Adult Adoption Information Bill.

Memorial endorsement on adoptee birth entry

Appears on every adoptee re-registered birth entry. Form No.3. 1st Schedule Birth and Deaths Registration Act 1951

s21(2). cf 1924 s27(2) cf 1915 s8(2). Includes name of Court and Magistrate that issued the adoption order. While the memorial is open for inspection by anyone, the information is normally omitted from all birth certificates issued. The Registrar-General regards it as not part of the birth entry, it is simply a procedural note. On the other hand it is argued the memorial is in fact a Statutory endorsement and therefore should appear on a certified *full* copy. My advice is, if you need the information such as for applying to a Court for access to adoption records. Inspect the birth entry, or write to the Registrar-General explaining why you need the information. From my experience, applicants find the Registrar-General most helpful and have been supplied with the information.

Withholding inspections

In early 1980s there were complaints of adoptees being refused inspection of their current birth entry at the Registrar-Generals Office. Some staff, to protect people who might not know they were adopted, withheld inspections. I receiving complaints. There was a detailed allegation of an adoptee being denied inspection of their current birth entry, letter published in the *Evening Post* 17/5/1982. The Ombudsman also received complaints, and on 15th June 1983 wrote to me that he was preparing to take action. The practice of withholding inspection by an adoptee of their current entry was stopped.

Courts and knowing adoptive status

In 1979 two cases of persons suspecting they were adopted, applied to Courts for proof of adoption status. In each case the Registrar ruled that under the Adoption Act 1955, it would be revealing information from Court records. Hence they could not confirm or deny the applicants status. The law places obligations on adoptees because of their status re forbidden marriages. If the Court denies them knowing their status it is an injustice.

How do I know I am adopted?

Apply to the Registrar where your current birth entry is held, or the Registrar-Generals Office to inspect your birth entry. If you are adopted it will be endorsed on the entry. The endorsement may not appear on *copies* issued. Since 1985 access by adult adoptees to their original birth entry is provided by the Adult Adoption Information Act.

Recommend one birth certificates for adoptee

1990 Report "The process of open adoption draws attention to the need to revise the system of recording birth certificates. We suggest the issuing of only one birth certificate recording date of birth, date of adoption, names of both birth and adoptive parents and the child's name." p43. Recommendation 7 "In the context of open adoption. We suggest that birth certificates should disclose the fact of adoption, the names of both the birth parents and the adoptive parents. We believe that this proposal has merit in its own right and is not dependent upon the recommendation for an open adoption plan being included in amended legislation." 1990 Report p76

DSW Adoption Information Manual

Births and Deaths Registration Act 1951 and 1995

Relevance to Adoption Information

11.1 Social workers may wish to be familiar with certain sections of this Act in order to be able to advise clients. Some sections of this Act that are relevant to adoption information are as follows.

Registration of change of name - Change of name by Deed Poll

11.2 s17A Occasionally an adopted person may ask if he or she is entitled to revert to the use of the birth name from the original birth certificate. It should be explained that, although he or she may use the name unofficially, so long as this is not for criminal purposes, it is the adoptive name that is the legal identity. People over the age of 20 years (or under 20 if married) may change their name, or any part of their name, by applying to the Registrar-General for the necessary forms, producing of a copy of one's birth certificate, and the payment of a fee. Once the Deed Poll has been registered, a new birth certificate is available in the changed name, and can be produced to alter records, tax returns, passports etc. A brochure detailing this procedure more fully, including fees, is available from the Court or Registrar of Births Deaths and Marriages.

Child of unmarried mother

11.3 S18(1) provides that where the parents of a child are not married to each other at the time of the child's birth, and were not married to each other at, or since, the time of its conception, the Registrar shall not enter in the register the name of the father of the child except where: (a) The mother and the person acknowledging himself to be the father jointly request that such an entry be made and both the mother and the father sign the register. (b) The mother attends at the Registrar's office and produces a consent in writing to such an entry being made, signed by the person acknowledging himself to be the father, and the Registrar is satisfied that the mother and that person were living together as man and wife at the time of the birth of the child. (2) If at any time after the registration of the birth of a child whose father's name is not entered in the register the Registrar-General is satisfied by statutory declaration, or such other evidence as he may deem sufficient that both the mother and the person acknowledging himself to be the father require the name of the father to be entered in the register, the Registrar-General may authorise the entry in the register. Provided also that if the mother is dead or cannot be found it shall be sufficient if the request is made by the father alone.

How to apply

11.3.1 In practical terms...the procedure is as follows. The birthfather needs to obtain the birth-mother's confirmation that he is the father of her child. The birthmother makes a statutory declaration to this effect on form R.G.257, available from the Registrar-General's office, requesting that the particulars relating to the said father be recorded in the entry of birth relating to the said child. This declaration has to be witnessed by a Justice of the Peace, a Solicitor or a

Registrar. The birth-father also makes a statutory declaration on form RG 257. Its a practical requirement that both statements are forwarded to the Registrar-General's Office together. When this has not been done in the past, the Office has failed to link up the two declarations, and the transaction has not been completed. If the birthmother is dead, or cannot be located, the birthfather can make a unilateral application to the Registrar-General stating this. He will be advised by that Office on the information he will need to supply.

Registration of Adoptions

11.4 S21 This section details the steps taken for the re-registration of the adopted child following the making of the Adoption Order, and the noting of this fact on the original entry. S7 requires the Registrar-General or the Registrar to 'supply a copy of the last entry (i.e. the amended or adoptive registration)... unless the...Registrar-General is satisfied that the particulars recorded in the original...entry are material for the purpose for which the copy is required and that a supply of the copy of the original.. would not be a contravention of the principles set out in S23 of the Adoption Act. S21(9) provides that in case of a dispute as to whether a person should be supplied with a copy of the original entry, the Registrar-General shall, upon that person's request, submit the matter to a District Court Judge, whose decision shall be final.

How to apply

11.4.1 In recent years this Act has been used by relatives, particularly children, of adopted people who have died. They write to: The Registrar-General, PO Box 31-115, Lower Hutt and can be advised to include the following. (i) A request for a copy of the original birth entry of the relative, defining the relationship. It is possible that only direct descendants may be successful. (ii) Full details of the name, date of birth and date of death of the adopted person, and that person's adoptive parents. (iii) The reason for wanting the certificate. It is important not to go into a lot of personal detail here, as the applicant is likely to bring up reasons that are not 'material for the purpose for which the copy is required'. If this is the case the request is refused. The most appropriate reason that can be given is that the certificate is necessary for the completion of the Family Tree, or for genealogical purposes. Health reasons are not appropriate. (iv) A request that the matter should be put before a District Court Judge for a decision, if the Registrar-General does not feel able to supply the certificate. (v) A cheque or money-order for \$15, being the cost of a full birth certificate (refunded if the request is refused) This may be all that is required. The original birth certificates of adopted people who were born more than 100 years ago are usually readily available. There may be a refusal for younger people, or a request for more information. On occasions the Court may refer an application to this service for further investigation." Adoption Information Manual CYPS DSW 1995. See Births, Deaths and Marriages Registration Act 1995, s63,74-76.

Case Law**Access by daughter to deceased father's Original Birth Certificate**

1994 Borrin DCJ Lower Hutt DC *Application by NY Referred to DSW to contact grandmother.* The applicants late father had been adopted. Both of his adoptive parents had died. His daughter applied to the Registrar-General for a copy of her deceased father's original birth entry. The Registrar-General's records indicated that the natural mother was probably still alive. He declined to supply a copy to the applicant, and she now applied to the Court, pursuant to s21(9) of the Births and Deaths Registration Act 1951, for access to her father's original birth entry. The applicant reasons for wanting access were (i) for genealogical purposes (ii) to find her real grandparents (iii) to ascertain any medical information which may be relevant either to her or to any children she may have.

Held (Adjourning the application sine die) It would not be proper for the Court to authorise release and leave the matter at that. Accordingly the Registrar of the Court was to refer the papers to the adoption unit at the DSW with a request that they, if thought proper, undertake the matter on the applicant's behalf, in particular ascertaining whether her natural grandmother would welcome an approach from her, and if so, by facilitating such an approach. The adoption unit was asked to advise the Court in due course of the outcome of any steps taken by them... The application is adjourned sine die, but Ms NY may bring it on again as may be necessary. Leave is reserved to her to the Registrar-General, and to the Adoption unit, to apply for any directions which may become appropriate as the matter proceeds. [1994] NZFLR 959-960

ADOPTIVE PARENT'S ADOPTION RECORDS

From 1881-1955, with all adoptions a copy of the Adoption Order was issued to all adoptive parents. Sometimes this adoption order as retained by the solicitor for safe keeping on behalf of the adoptive parents. The adoptive parents could also obtain a duplicate copy from the Court at any time on payment for a fee of 2/-. Contents of Adoption Order: Full birth names of child, sex, place and date of birth. Full names, address and occupation of adoptive parents. Court, date and place, and name of Magistrate of Judge issuing the order, also the adoption Order number. The adoptive parents are also normally given some background details regarding the birth origins of the child by the agency or individual arranging the adoption. Since 1955 with adoptions arranged through the Social Welfare Department, increasing amounts of data are given. By the 1980s they often supplied a written summary of the background for future reference. Sometimes meetings were arranged between the birth parents and adoptive parents at the time of the adoption, and in this context data exchanged. Increasing numbers of open adoptions were also made, with continuing contact between all parties involved, and thus no secrecy at all.

SOLICITORS ADOPTION RECORDS

They date from 1881. Most persons making an application for an adoption order employ a solicitor to make the legal arrangements. The solicitor maintains a file for the adoptive parents as a normal client relationship. This file normally contains a copy of the adoptive parents affidavits, and application for an adoption order. This file may contain the birth parents names, but does not normally include any background data on child or birth parents. If the adoption was made prior to 1955 the file may contain a copy of the adoption order. It should also be noted that some solicitors destroy adoption files after at least 10 years. The adoptee has no solicitors file as they are not a client. The consenting birth parents may have a file with the solicitor who took their consent, but often there is no file, the consent is simply taken and sent to the adoptive parents solicitor.

What to disclose from your adoption files?

1978 Legal Opinion

“The status of information on a solicitor's file is troubling an increasing number of practitioners. They are uncertain whether such information must be supplied on request for example, to an adopted child wanting to know the identity of his natural parents - or whether it can be withheld. Such requests are becoming more frequent. The Council sought to clarify the position by obtaining an opinion from Auckland barrister Robert Smellie QC...

— Mr Smellie considered five questions

1 Is the natural mother entitled to the file or information from it, which may disclose or enable her to ascertain the identity of the adopting parents of the child?

2 Are the adopting parents entitled to the file or information from it, which may disclose or enable them to ascertain the identity of the natural mother?

3 Is the solicitor who acted for the adopting parents under any obligation to disclose their identity when requested to do so by the natural mother? (It is assumed the request would come from the solicitor who acted for her initially).

4 What is the position of the solicitor who acted subsequently by the adopted child, who having reached maturity, wants to know the identity of his natural parent or parents? **5** If the natural mother decides to change her solicitor, what are the obligations of the practitioner originally instructed in regard to handing the file over to his former client? Mr Smellie said there was—

First the general question of the right of the client to possession of, or information from, the solicitor's file once the fee is paid.

— Solicitor's obligation

It was clear to him that the original letters, copy letters and copy documents on a solicitors file must have been made for the conduct of the client's business and preserved on his or her behalf. That being so, on the basis of the authorities discussed in the opinion (*Cordery's Law Relating to Solicitors*, page 118 and *Marshall v MacAlister* [1952] NZLR 257), such

solicitor in the absence of an statutory prohibition, and assuming his fee had been paid, would be obliged on the request of the client to either disclose the contents, or hand the file over. “The fact that in many instances the natural mother taking advice from a solicitor on the signing of the consent is not paying the solicitor's fee herself, would not detract from the solicitor and client relationship, nor from the solicitor's obligation to her if she asked for information or documents to which she is entitled. (See *Phipson on Evidence*, 11th edition, para 588).”

— The second issue,

said Mr Smellie, was whether or not the prohibition in section 23 of the Adoption Act 1955 against production or inspection of ‘adoption records’ altered the position. He concluded that the plain literal meaning of the words ‘adoption records’ in the context of section 23 meant the records of the court and did not extend to the contents of the files of solicitors acting for parties involved in adoptions. He was of the opinion that such a conservative, literal interpretation was more probably than the utilisation of section 5(1) of the Acts Interpretation Act 1924 to support a ruling that solicitors' files were included in the words “adoption records.” “I have only reached this conclusion after anxious consideration and on something of a fine balance,” said Mr Smellie.

— Answers to five questions

1 The natural mother is entitled to the file or information from it.

2 The adopting parents are entitled to the file or the information from it.

3 The solicitor who acted for the adopting parents should only disclose their identity to the natural mother or her solicitor with the adopting parents' approval. Once that approval is given there is no prohibition against the solicitor providing such information.

4 The solicitor here acted for the adopting parents, not for the adopted child. He has no duty to the adopted child and should not disclose the information unless specifically requested to do so by the adopting parents.

5 If the natural mother changes her solicitor the practitioner whose retainer is terminated must hand over the file to the natural mother if she insists, or alternatively to her new solicitor.

— Minister's attitude

The Society told the Minister of Justice, who has a copy of Mr Smellie's opinion, that the object of the Adoption Act appears to be bypassed because although court records may not be examined, in the circumstances outlines above the information in solicitors' records and files must be disclosed. The Minister was asked to consider immediate amendment of section 23 to extend the protection given to court records, to solicitors' records and files. Replying on 14th August 1978, Mr Thomson said he would be reluctant to put forward any amendment to section 23 until all the problems arising from the section could be considered. “You will be well aware that the whole question of access to adoption records is of considerable public concern. It is likely that a decision will be taken next year on whether

section 23 should be examined in isolation or in the context of a general review of the Adoption Act.” ‘Northern News’ Newsletter of the Auckland District Law Society. November 1978 Issue No.34

Case Law

Motorcycle access

1980 Patterson DCJ Lower Hutt DC “Wreckage in search for adopted son”. Julie Anne Parkinson aged 19, cleaner, rode a motorcycle through two glass doors and smashed a window to gain entry to solicitors’ Lee & Boyer’s premises in search of papers which would show the whereabouts of her son, who had been adopted. The search was unsuccessful. Convicted of wilful damage, 18 months probation and pay restitution of \$900 for damage. *Evening Post* 25/11/1980 p14.

Birth mother seeks access to solicitors files

1984 Hillyer J Auckland HC *D v Hall*

A birth mother sought access to her solicitors files. The identity of the adopting parents had not been disclosed to the birth mother at time of the adoption. Later, the birth mother requested that her solicitor hand over the file relating to the adoption. The name of the adopting parents would be on the file. Two issues, (a) Whether the papers on a solicitors file are “adoption records” and safeguarded by restrictions of Adoption Act 1955 s23.

Held “I do not consider that the section is designed to deal with private papers which, I think, are subject to the ordinary rights of property applying to any chattel owned by an individual, I conclude therefore, that s23 does not apply to papers held by a solicitor either on his own behalf or on behalf of his client.” (b) Whether the birth mother was entitled to possession of her solicitors file the issue is now considered: The Judge made a detailed study of English case law see Law Reports for detail. “I am of the opinion that where a solicitor receives information in confidence for the purpose of carrying out his client’s instructions, he must respect that confidence even against his client. Even more, where the proper carrying out of instructions to permit adoptions is concerned, should the confidence be respected. It is in the public interest that people should be able to adopt children. If, as a condition of adoption the adopting parents take advantage of the law that says that their identity may not be disclosed to the natural parent, the public interest will be served by permitting that adoption to go through. It may be that in times to come it will be recognised that some degree of disclosure is necessary when an adopted child reaches adulthood, but that would be a matter for the legislature. I am dealing here with a situation where adopting parents took a child in the belief that their names would not be disclosed. They are entitled to have that confidence respected and it would not be in the public interest for solicitors to be hampered in their conduct of adoptions by their being bound to disclose everything they may learn to their client, even if the information came to them in confidence. I therefore give this indication, and it can be no more, for the reasons I have mentioned, that even though s23 of the Adoption Act 1955 does not apply

the plaintiff is not entitled to the confidential information on the file prepared by Mr Grace [Her solicitor]. I have said, the proceedings were under the Declaratory Judgments Act 1908, and therefore not apt to obtain a declaration as to the plaintiff’s rights. This was brought to the notice of counsel and they considered whether a writ seeking a declaration should be filed. While this was going on however, word came through that happily the plaintiff’s son, now aged 18, had made inquiries himself and communicated with his mother. The plaintiff therefore no longer wished to obtain access to the papers held by Mr Hall...I have therefore at the request of all counsel agreed to release this judgment, but it will be subject to the limitations mentioned.” *D v Hall* [1984] 1NZLR 727// *Re Adoption of D’s Child* 1FRNZ 345 // *Re A* (1984) 3NZFLR 52

Comment: The first part of the Judgment is clear, solicitors files cannot be regarded as ‘Court Adoption Records’, the second part remains unfinished until there is a declaratory Judgment on the rights of the birth mother as acknowledged by the Judge. KCG

Access to solicitors’ records

Trapski— **K.21** Section 23 states that adoption records shall not be open to inspection, but it applies only to Court records, not to papers held by solicitors on behalf of themselves or their clients. On the face of it, a birth mother would be entitled to original letters, and copies of letters and documents from her solicitor’s file. This would apply also to a birth mother who has taken advice from a solicitor on the signing of the consent, even though her solicitor’s fee is paid by the adoptive parent(s).

However, Hillyer J, in a carefully considered decision in *Re A* (1984) 3 NZFLR 52, concluded that a solicitor who receives information in confidence for the purpose of carrying out his or her client’s instructions must respect that confidence even against the client. He stated at p 62: “it would not be in the public interest for solicitors to be hampered in their conduct of adoptions by their being bound to disclose everything they may learn, to their client, even if the information came to them in confidence.”

Source *Trapski’s Family Law* Vol. 5. ‘Adoption’ pp418 K.21. (21/11/03) Brooker’s

Solicitors’ records

K.2.05 Solicitors who act for adoptive parents or for birth parents on an adoption may have relevant information in their records. They are bound by an ethical and legal duty to protect their client’s confidentiality and will not release information to a non-client without their client’s permission. They may also be bound by a duty not to disclose confidential adoption information to their client: *Re A* (1984) 3 NZFLR 52; Solicitors have no legal responsibility to hold files of adoption cases for any particular period of time, and practice varies.

Source *Trapski’s Family Law* Vol. 5. ‘Adoption’ p376A K.21. (22/8/02) Brooker’s

SOCIAL WELFARE ADOPTION RECORDS

Card index of basic adoption information

1906-1955 These records date from 1906. As a result of the Adoption of Children Amendment Act 1906 s2, and as consolidated as s20 of the Infants Act 1908, re notification required of any premium payment in regard to any adoption. A premium was a one off payment made by a birth parent to an adoptive parent toward the care of the child. The Education Department Special Division was given the task of reporting and administrating adoption premiums. To carry out the task the Department of Education requested all Courts to forward the basic data on **all** adoption orders made, premium or non-premium. These records are now kept as a **card index**, at the Wellington District Office of CYF, under control of the senior adoptions officer.

— **Contents of card file**

Full birth name, sex, place and date of birth and legitimacy of the child. New full name of child after adoption. Adoptive parents full name, occupation and marital status. Note that birth parent names are not recorded on the cards.

— **Social welfare adoption files**

Files on all adoptions arranged by *Child Welfare/ Department of Social Welfare/CYF* are kept by the District Office of the Department where the adoption took place. Most files prior to about 1955 are now kept at Head Office Social Welfare Archives Section, but many are missing. From 1955 onwards more detailed files were kept by Districts.

— **Typical content**

Details as above in the Card Index, plus a copy of the Social Workers Report and notes. The information on the RG69 Form Yellow Copy. Full birth names of child, sex, date and place of birth. Names of birth parents. Names of adoptive parents, address and occupation, also ages at time of the adoption or birth date of child. Maiden surname of adoptive mother. The Court, Judge or Magistrate issuing the adoption order, date and adoption order number. The Social Workers Report will normally contain background information on birth parents and adoptive parents. There is also a brief Police Report- as to "if anything is known to them concerning the character of the adoptive applicants."

Right: 1930 Child Welfare Card - Form 53

A copy of the record of adoption of Keith Clifton Griffith - the author of this book.

Original Birth registration name 'Keith Austin'. [Birthmother's surname was 'Austin' and she named me after my birth father 'Keith'. My adoptive parents retained 'Keith' as my first name, and added 'Clifton' after my adoptive father.

Adoptive parents Joses Clifton Griffith and Evelyn Myrtle Griffith. Date 18/12/1930. Place Levin. Age and status one month old illegitimate child. Non-premium adoption.

Adoption records Wellington District Office

"The adoption information resources held at the Wellington AISU (Adoption Information and Services Unit) —

1 1900-1950 Index cards (National)

In these years adoption 'files' as such, were normally of minimal detail. However, all adoptions were recorded on Index cards. The Wellington office still holds these cards for most adoptions throughout New Zealand from a 1906-1950.

(a) These cards generally do not add extra information to what is available to an adopted person on his/her original birth certificates.

(b) The *birth parents'* names are not recorded on the cards.

(c) The index cards can be useful to AISU where there is a need or requirement to establish: (i) Whether an adoption took place. (ii) Where and when the adoption order was made. (iii) Whether a '*premium*' was paid to the adoptive parents in relation to the adoption (a practice which occurred in earlier years); (iv) Sometimes the card indicates existence of another record (eg. archives file).

2 1950-1960 Index cards (local)

In this period, the Department of Social Welfare records began to be established in local districts. Wellington AISU holds records of most adoptions in the Wellington metropolitan area. Again, this in general has very limited information recorded on cards. This can include birth parents'

[C.W. - 53.]

ADOPTION.

Name of child previous to adoption: Austin Keith

Premium: Nil

Adoptive name: Griffith Keith Clifton

Order No. 25/337, made at Levin, dated 18/12/30

[1,000/10/29-10835]

[C.W. - 68.]

ADOPTION without premium.

Child-adopted name: Griffith Keith Clifton

Age: — years 1 months. Sex: M. Legitimate, Illegitimate.

Order No. 25/337, made at Levin, dated 18/12/30

Adoptive parents: Griffith Joses Clifton & Evelyn Myrtle

Address: Kimberley Road, Levin

Marital state: Married Occupation: Farmer

Status of Child previous to Adoption.

Name previous to adoption: Austin Keith

Formerly under control* I.L.P. District.

Under control at adoption: District.

SOCIAL WELFARE ADOPTION RECORDS

details or a cross reference to them.

3 1960- Present adoption files (local)

Wellington AISU holds adoption files (which are kept under the ADOPTIVE PARENTS' names), provided the adoption order for the youngest adopted child in the family was made in the Wellington metropolitan area (City of Wellington, Lower and Upper Hutt, Porirua and Kapiti Coast). Most the information on these files is about the *adoptive parents'* (eg. their application, references, medical checks, social worker's interview notes etc). There is usually little information about the adopted person, and usually only one page (called the E5/81) about the birth parents. This information is of course, outdated, limited, and not always accurate.

4 Personal and family files (Local)

Wellington AISU holds lists of these files for the Wellington metropolitan district where children and families were in DSW care or came to DSW notice. They sometimes involve people who were adopted and later came to notice, or vice versa. Depending on the circumstances, such enquiries may be handled either by AISU or The Children and Young Persons and their Families Services (NZCYPS). The records are held in various building around Wellington, not on site, and must be requested on loan.

Note: If the adoption records sought by a person living in Wellington are likely to be held in another district, Wellington AISU can seek the records on that person's behalf, or the person can write direct to the district concerned to request available information.

5. Archives lists (National)

(a) List of people who were 'in care', some of whom were later adopted, or vice versa. Cover earlier years, sometimes back to 1900's. (b) Must be accessed by us through National Archives. (c) Preferably we need *both* birth and adoptive names as some lists are not cross referenced or complete. (d) Depending on individual circumstances and information sought, enquiries for access or archives files may be handled either by AISU or NZCYPFS.

6 Overseas resources

AISU Wellington holds information on current adoption information legislation and procedures for the following countries: (a) Australia (all States); (b) United Kingdom; (c) USA (including War Babies protocols) and Canada. If you require more information on a particular country or state, please ask us.

Please Note

1 All records held by AISU are subject to the provisions of the Adult Adoption Information Act, the Privacy Act, the Official Information Act, and Archives Act.

2 While AISU's philosophy is to encourage people to carry out their own searches, if a person is having difficulty, or is stuck with a difficult search, AISU is willing to offer what searching assistance it can. Local AISU sites can offer this assistance, and will refer a search to Wellington or seek the input of our searchers as appropriate.

3 Because some searches are complex, and because of the numbers of enquiries received, it is not possible to place 'time frames' on a search request to AISU."

XXX

Source Information supplied by the Children and Young Persons Service, Adoption Information Service Unit, Wellington District Office July 1996

Non social welfare adoptions

It should be kept in mind that over the years many adoptions were not arranged through the Social Welfare Department. Many private adoptions took place, or were handled by private adoption agencies prior to 1955. Also since 1955 there have been increasing numbers of stepparent adoptions where one of the applicants is already a birth parent of the child. In these cases courts have often not requested a Social Welfare Report. If the Department has not arranged the adoption they will have only minimal data concerning the adoption, probably nothing more than on the index card file.

Information from departmental files

Adoption files concerning applicants for information are normally at least 20 years old, need to be used with caution.

Mary Iwanek— "The reasons are that:

(a) a lot of information on adoption files is old and out of date

(b) some of the information is written in derogatory terms, making statements and value judgements about people which may be totally untrue and invalid. To burden an adopted person with impressions of people about their birthparents many years ago does not appear to be of any use

(c) they would search later if the person sought could not be located...It was further reported from adoption support groups, that it was their impression that *over half of the information on file was found to be incorrect* after the reunion had taken place. Social workers found that in many instances, adoption files had been destroyed, and the search, although time consuming, had not resulted in locating any information."

Source Mary Iwanek DSW 1991

DSW Records - privacy issues

Adoptions Local Placements Manual 1995. 2.6 "In addition to these general principles, and the International conventions, social workers are subject to the Privacy, Official Information and Adult Adoption Information Acts. The relationship between these pieces of legislation in respect of access to personal information by adopted persons and others, is discussed in detail in the Adoption Information Manual. The Privacy Act impacts not only on what information may be disclosed, and to whom, but also on all aspects of collection, storage, use and retention of personal information. Given that the adoption process necessarily involves the collection of extremely sensitive personal information those involved in the process need an understanding of the principles of the Act. The Privacy Act recognises that individuals have a right to exercise some control over their personal information. The term personal information is defined as "information about an identifiable individual, and includes information contained in any register of deaths under the Birth and Deaths Registration Act 1951." The fundamental theme that runs through the

Privacy Act is one of purpose. In deciding whether any collection or use of personal information is permitted it is necessary to ask what is/was the purpose for which the information was held. This theme can be seen in each of the 12 information privacy principles, which form the core of the Act.

Purpose of collection of personal information

Principle 1. 2.6.1 “Personal information shall not be collected by any agency unless the collection is necessary for a lawful purpose connected with a function or activity of the agency. Avoid the collection of excessive or unnecessary personal information. For example, is it necessary to collect personal information about the health of persons other than the parties to an adoption such as relations of the adoptive parents? In carrying out functions under the Adoption Act, social workers have an obligation to collect information about birth parent medical conditions, and about adoptive parent suitability and criminal convictions. The collection of other information may not be specifically authorised by the statute, but may still be necessary for the purpose of determining what is best for the adoptive child, e.g. ethnicity, tribal affiliations, intellectual abilities, sporting interests, etc, (in itself a lawful purpose for the collection of information).

Source of personal information

Principle 2 2.6.2 “Personal information shall be collected directly from the individual concerned. The object of the information is likely to be the most accurate source of information about the person. It will not always be desirable or practicable to collect personal information directly from the source in all cases. This principle has exceptions, for example it will not be a breach of the principle if the agency believes on reasonable grounds that non compliance would not prejudice the individual concerned, or that the individual authorises collection from another source. Two examples of how this principle may affect adoption workers are:

(a) referees - prospective parents must provide referees. Where the parent advises a social worker of the name and address of a referee, the social worker will in most circumstances have reasonable grounds to believe that the parent has authorised the collection of information about them from the referee. However in most cases it will be desirable for the social worker to obtain an explicit authorisation to obtain information from another source. For example, if the social worker is aware that the adoptive parents are members of a particular church he or she should ask the parent for permission to approach the Minister or church leader for an additional reference.

(b) information about birth fathers - social workers need to collect personal information about the birth father. This information should be collected directly from the birth father.

Where it is not reasonably practicable to do so, and the social worker considers that collection of the information from another source (usually the birth mother) would not prejudice the interests of the father, or the father has authorised the birth mother to provide the information, the fact that the information has been collected from another

source, and the reason, should be noted on the file. Where possible, the information should be confirmed with the birth father before it is put to any use (eg providing it to the adoptive parents). Refer to para 2.6.8

Collection of information from subject

Principle 3 2.6.3 “When information is collected directly from an individual the agency shall take such steps as are in the circumstances reasonable to ensure that the individual is aware of:

- (a) the fact the information is being collected
- (b) the purpose for which the information is being collected;
- (c) the intended recipients of the information; and
- (d) the name and address of the name of the agency collecting the information, and the agency that will hold the information.
- (e) the particular law by or under which the collection of the information is so authorised or required and whether or not the supply of the information by the individual is voluntary or mandatory; and
- (f) the consequences, if any for that individual if all or any part of the requested information is not provided; and

(g) the rights of access to, and correction of, personal information provided by these principles. Again there are exceptions to this principle. Much of the personal information collected by social workers will be collected on standard forms, which will be adapted to ensure compliance with this principle in legal terms. In many cases explanations of these matters on forms will be sufficient compliance. However, possible barriers to understanding should be considered. It may in some circumstances, be necessary to give explanations in appropriate languages. Other barriers may be lack of literacy, immaturity or mental disability, which require further elaboration of the “fine print” on the form. The purposes of collection of the information should be clearly explained, in addition to the information given on the form. The person from whom the information is being collected should be advised that the primary purpose for the collection of the information will be the immediate one of placing a child with adoptive parents however, other contemplated purposes should also be explained. For example, the information is also being collected for retention on departmental files for future access by the adopted person (or the birth parent) to identifying, or non - identifying information. refer para 2.5.2. Note: It will not be a breach of the principle if non compliance is not reasonably practicable in the circumstances of a particular case (for example in the case of a severely handicapped mother)

Manner of collection of personal information

Principle 4 2.6.4 “Personal information shall not be collected by means that are unlawful, unfair, or intrude to an unreasonable extent upon the personal affairs of the individual. Adoption workers collecting information contrary to this principle would be in breach of not only the Privacy Act, but also ethical standards and conventions.

Storage and security of personal Information

Principle 5 2.6.5 “Personal information shall be protected by such security safeguards as are reasonable in the cir-

cumstances to ensure against loss and misuse and that access, use, modification or disclosure is only with the authority of the agency that holds the information. Personal information about birth and adoptive parents is extremely sensitive and therefore high standards of security are required to comply with this principle. It is impossible to prescribe a code covering all aspects of security but the following points should be borne in mind; Adoption files should be stored in secure lockable areas

(a) Files should not be left unattended in public areas, - for example where a typist is located in a reception area, the file should not be left in an in tray while that person is at lunch. Files should not be left in cars.

(b) Care should be taken when sending personal information out of the office, eg preferably by registered mail or by courier by using secure means such as sealed plastic envelopes.

(c) When transmitting personal information by fax machine, the sender should always check the number first and ask the receiver to stand by to pick up the transmission.

Access to personal information

Principle 6 2.6.6 "Individuals are entitled to ask the agency for confirmation whether personal information is held about them and if the agency does hold this information, to give the individual concerned access to that information. Most questions of access to personal information will arise in the context of an adopted person seeking information about their parents and the circumstances in which they were given up for adoption. These requests, and requests by birth parents for information about adopted children are covered in the Adoption Information Manual. This principle applies only to requests for personal information about the person making the request. Requests for information by third parties are covered by the Official Information Act, and are also discussed in the Adoption Information Manual. If a request is made for the file (rather than the "information") it will first be necessary to determine what information is about the requester and what is not. Any information that is not about the requester is "official information" in terms of the Official Information Act.

It is important to bear in mind when recording personal information that the individual has the right to request access to that information, and may see what has been recorded. This should ultimately improve the quality of the information recorded by encouraging the accurate and objective recording of facts and judgments. There are a number of reasons for refusing requests listed in the Act. These should be referred to if the adoption worker is in doubt about whether access should be given. For example a request may be refused where release of the information would involve the unwarranted disclosure of the affairs of another person, or deceased person, or the person making the request is under 16 and disclosure of the information would be contrary to their interests. Where a request is made by the adoptive parent for the information held by the service, all the information must be assessed. If the social worker has concerns about releasing a particular item of information and that concern is reflected in one of the statutory reasons, consideration should be given to alterna-

tive means of making the information available, for example, by discussing the information with the parent, releasing a summary of the information, or deleting passages. Whenever this is done, the parent must be told the reason why access has not been given in the form they requested, and advise them of their right to have the decision reviewed by the Privacy Commissioner.

It is good practice when obtaining personal information from referees to advise the referee that the adoptive parent may get access to the information. The referee's attitude to this may then be gauged. If a request is made, and the adoption worker is unsure about releasing the information, the request should be discussed with the referee. It should be noted however that the referee will not have a right to veto the release of the information.

Correction of personal information

Principle 7 2.6.7 "Individuals can ask agencies to correct information held about them. Where a refusal is made to correct personal information, the agency if so requested must attach to the information any statement provided by the individual of the correction sought. It is to the advantage of everyone concerned to ensure that personal information is as accurate as possible. Rather than waiting for the individual concerned to correct the information the person with access to the files should make regular checks to ensure the information is correct and up date the information accordingly.

Accuracy of personal information to be checked before use

Principle 8 2.6.8 "Personal information shall not be used unless reasonable steps have been taken to ensure the information is accurate, up to date, complete, relevant, and not misleading. The adoption worker involved would need to consider what is reasonable in the circumstances having regard to the purpose for which the information is proposed to be used. More rigorous steps would need to be taken to ensure the information is accurate if the adoption worker proposes to determine a placement on the basis of that information. For example, if the adoption worker hears that an adoptive parent has been accused of child abuse, and proposes to decline a placement on that basis, the allegations should be put to the applicant, and if necessary their consent should be obtained to make further enquires of other people, before making a decision on the placement. If adoptive parents have 'been on the books' for some months, the social worker should confirm with them that all the information they hold is still current before taking any action on the basis of the information held.

Agency not to keep personal information longer than necessary

Principle 9 2.6.9 "Personal information shall not be kept for any longer than is required for the purposes for which the information may be lawfully used. Periods of retention of the information will vary according to the purpose for which the information may be used. Where information has been collected for (among other reasons, retention for future access by one of the parties to the adoption) it may need to be kept indefinitely. If however, each individual to whom the information relates agrees that it should not be retained by

the department, the department would have no lawful purpose for the continued retention of the information. Items such as medical reports, references, and records of criminal convictions do not need to be retained for the future access of the adopted person. Until the various issues surrounding the disposal of such documents are resolved and policy clarification on various points received from the Privacy Commissioner, all files where a placement has been made are to be retained in their entirety. If the birth parent or adoptive parents withdraw from the an adoption, there may be no lawful purpose for continuing to hold the information. Consideration then must given to the best means of disposing of the information. This may be done by securely destroying it, or returning it to the respective parties.

Limits on use of personal information

Principle 10 2.6.10 “Personal information that was obtained in connection with one purpose shall not be used for any other purpose. The Department of Social Welfare has a variety of functions including Income Support and functions of the Children and Young Persons Service (other than adoption services). Generally information collected for adoption purposes should not be used within the department for any of these other purposes. For example the department should not use information obtained by the adoption unit about the birth mother for the purposes of pre adoption counselling for verifying for checking that persons eligibility for a domestic purposes benefit. Similarly information collected in this context should not be used for other care and protection matters. There are exceptions to this principle however, - refer to 2.6.11 below.

Limits on disclosure of personal information

Principle 11 2.6.11 “Personal information shall not be disclosed to any other person, body or agency. This principle enshrines the ethical imperative of confidentiality. Disclosure is permitted where disclosure is one of the purposes for which the information was collected, or is a directly related purpose. Other exceptions apply, such as when disclosure is necessary to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detention, investigation, prosecution and punishment of offences and where it is necessary to prevent or lessen a serious or imminent threat to the life or health of the person concerned or another individual. For example, if during the course of a visit to the prospective parents’ home the social worker detects evidence of violence or abuse within the family to the extent that the social worker has real fears for the life or health of a family member or other person, it will not be a breach of this principle to advise an appropriate agency of the situation.

These exceptions are permissive. They enable social workers to use or disclose personal information for purposes other than that for which the information was obtained. They do not require the other use or disclosure. For example, if a police officer or investigation unit officer asks for information, and the social worker is satisfied that disclosure is necessary for the maintenance of the law, he or she may provide the information sought, or may decide not to. However, it must be noted that other laws requiring

disclosure may override the Privacy Act. If police officers produce search warrants to obtain information, or an investigating officer requires in writing under section 11 of the Social Security Act, the production of information, the disclosure of information by the social worker will not be a breach of the principle.

Unique identifiers

Principle 12 2.6.12 “Information Privacy Principle 12 limits the use of unique identifiers and is not relevant to present adoption services recording and/or practice.”

Source Adoptions Local Placements Manual CYPS DSW 1995.

Working with Adult Information Adoption Act 1985

Moya Shaw and Ron Benjamin— “The Adult Adoption Information Act was the product of years of political debate, social pressure and intense lobbying. It put aside decades of secrecy about adoption. A number of myths about adoption have in part contributed to a climate in New Zealand which worked against such an Act being passed at an earlier stage. These are:

- (a) The birth mother obviously doesn’t care about her child or she wouldn’t have given the baby away.
- (b) Secrecy in every phase of the adoption process is necessary to protect all parties.
- (c) Both the birthmother and the birthfather will forget about their unwanted child.
- (d) If adopted persons really loved their adoptive families they would not have to search for their birthparents. Birthparents and adopted adults have borne the brunt of these myths and it is largely due to their determination and sustained efforts that the Adult Adoption Information Act was passed into law... It is our responsibility to give adopted adults and birth parents information so that the decision they make ie., to place a veto or to make contact is an informed one. People deciding to make contact need support and the opportunity to explore their feelings: their fears, hopes and fantasies. Working with the new Act to which we are fully committed, has been a gratifying experience. To be a facilitator in a process which enables the adopted adult to search and make contact with birth parents has been positive and exciting...For adopted adults who want to know about their origins and for birth mothers who want to trace an adopted son or daughter the Act is a compassionate and commendable piece of social legislation. Our basic philosophy in working with it is to aim for minimal intervention in peoples lives with maximization of their individual choices.”

Source Moya Shaw and Ron Benjamin. DSW *Working with the Adult Adoption Act 1985* Paper 1987.

Files- Depart of Child, Youth and Family Services

K.2.03 If the Department of Child, Youth and Family Services (formerly Department of Social Welfare) arranged or reported on the adoption, it will have files which may contain information about the birth parents, the adoptee, and the adoptive parents. The department has been willing to assist inquirers and give non-identifying information, and there is now a statutory power to assist in approaching a birth parent or adoptee: s 10 Adult Adop-

tion Information Act 1985.

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp375. K.3.03. (24/3/00) Brooker's

K.20.06 Inspection has been allowed to the Department of Child, Youth and Family Services as sole legal guardian of the child of an adopted mother after the Court had dispensed with her consent to placement of the child for adoption. The department sought this information to enable it to implement its policy to place children with members of their own family or whanau wherever possible : *Re an Application by the DGSW 5/12/94*, FC Hastings FC020/57/94.

Report from a social worker

K.20.07 The Court may require a social worker to prepare a report on an application for production or inspection of adoption records, which relies on the "other special ground" provision in s 23(3)(b)(iii) Adoption Act: s 23A(1) inserted by the Adoption Amendment Act 2000 from 15 November 2000. In preparing the report the social worker must not consider information relating to any party to the adoption or the application to inspect that was obtained by the Department before the application to inspect was made: s 23A(2)(b).

Source *Trapski's Family Law* Vol 5. 'Adoption' p418 K.20.06 &07 (21/11/03) Brooker's

Agencies as information protectors

Browning— Although court records remained accessible until 1955, agencies had a different view; working in the best interest of the adopting parents they assumed the role of "information protectors" to prevent reclamation of the child by his or her birth mother (Griffith, 1991:14). It was assumed that, by circumventing access to information pertaining to the child's origin, they were also protecting the child from unsavoury information about, for example, conception being a result of rape or incest. The side effect of this Act was a slow and steady move towards closed adoption shrouded in secrecy (Gillard-Glass and England, 2002:20).

Source Julee Browning 'Blood Ties' Thesis 2005 p35

ADULT ADOPTION INFORMATION ACT 1985

Adoption Information Questions Petition Bills

The major thrust in the adoption law reform movement was to obtain openness and honesty in adoption. An openness where adoptees can know the truth of their origins, and birth parents to know what happened to them.

Legal reform moves developed three specific objects.

(1) Use the existing processes of law to obtain access by adult adoptees to their adoption court records.

(2) Promote Legislative provisions for accessing of adoption information. Adult Adoption Information Act 1985.

(3) Seek comprehensive review of the Adoption Act 1955. This section examines the Adult Adoption Information Act 1985, formation- debates- implementatimon- results.

PARLIAMENT 1976-1985

"The Adult Adoption Information Act 1985 was brought about by the heroic efforts of a small group of people in the face of Parliamentary obstruction" R Lubrook 1995.

The first moves in Parliament toward adoption law reform began with the asking of questions that would (a) draw the National Governments attention to the rising movement supporting adoptee access to the truth of their origins. (b) Ask the Government what they proposed to do about it, and (c) pressure for legislative action. The questions arose from the lobbying of members by individuals and reform groups. There was also a petition from Jigsaw Incorporated. The raising of these issues in Parliament also served via the media to stimulate open public debate.

Questions

23/11/1976 Question for oral answer adopted children and natural parents

"Hon Dr A M Finlay (Henderson Lab) asked the Minister of Justice, Has he considered the submissions made to him on the law of adoption by Jigsaw Incorporated, and what is the Government's attitude to it's request that adopted children should, subject to certain safeguards, be authorised to make inquiries about he identity of their natural parents?"

Hon David Thomson (Minister Justice Nat) I am aware of the views of Jigsaw Incorporated on the law of adoption, and, in fact, two representatives of this organisation called on me recently to discuss its aims and objects. However, the Government has not studied the arguments for or against permitting adopted children to find out the identity of their natural parents, and I expect it to be some time before any decisions are made in this delicate area of the law. Existing law protects the privacy of all parties, and any departure from it would have to be carefully weighted. It is my intention that departmental officers should look at this question when considering what general changes should be made in the Adoption Act 1955. When officials have completed their review, which on current indications is unlikely to be before the end of the next year, Ministers will of Course have to study proposals for policy changes. I think it is implicit in what I have said that the Government does not favour hasty or piecemeal amendments to the law of adoption.

Hon Dr A M Finlay Would the Minister consider setting up an interdepartmental committee to consider that aspect of adoption law which would mark a complete break with our tradition, but nevertheless is one adopted in many other countries; one other department involved being the Social Welfare Department?

Hon David Thomson Yes. The instructions I have given to my department would require it to consult with other relevant departments. I do not want to leave the impression that I am rushing this matter.

Mr. Quigley (Rangiora Nat) Would the Minister confirm that he is not necessarily considering a change in the existing adoption law as opposed to a complete investigation of it?

Hon David Thomson That is correct. I want to look at the Adoption Act, compare it with changes made overseas, and consider representations already made to the Government." **Source** Q17 NZPD Vol.408 23/11/1976 p4108

1977 Petition - Change in Law on Adoption

Mrs Jo Ripley and 519 others. Jigsaw Incorporated. "Hon. Secretary and Members of Parliament assembled. We, the undersigned, and being of voting age, humbly pray that Parliament will recommend to the Government:

1 That the law be changed to allow an adopted person, on reaching he age of 18, to have access to his or her original birth registration.

2 That provision should be made for an intermediary to make contact, should it be desired, between the principals involved.

3 That the age provision should be lowered in extenuating circumstances.

4 That the signing of consent to adoption be changed from 10 days after birth to six weeks after birth.

5 That the birth parents, through an intermediary, should have the right to continuing information about the well-being of their child."

2/8/1977 Petition

Presented by *Hon GF Gair (North Shore Auckland Nat)* "Petitions from the following were presented and laid upon the Table: Mrs Jo Ripley and 519 others, Praying for amendments to the Adoption Act 1955." Petition referred to Social Services Committee: Hon Mr Connelly (Wigram Lab), Mr Downie (Pakuranga Indp), Hon T F Gill (East Coast Bays Minister of Health Nat), Mr Malcolm (Eden Nat), Hon Mr Rata (Northern Maori Lab), Dr Shearer (Hamilton East Nat), and Dr Wall (Porirua Lab).

Source House Journal 1977 p154

7/10/1977 Secretary of Justice Report

on background to existing law. Petition is contentious, should wait until a full review of adoption law. 4/10/1977 GC.Vol.21 p6627-9. Director-General of Social Welfare Report- against any sudden change. An Interdepartmental

Committee should make a careful examination of adoption legislation and study the wide range of views. 7/10/1977 GC.Vol.21p6625.

19/10/1977 Report back

Social Services Committee to House "(2) Petition of Mrs Jo Ripley and 553 others. *Mr Downie*...The reports were laid upon the table...on the motion of *Mr Downie*, the Petition was referred to the Government for consideration". **Source** *House Journal* 1977 p308

1978 Consideration report to House At the start of 1978 Parliamentary Session a Paper relating to Petitions of the 1977 Session was laid on the Table. Included Petition No.16/1977 J Ripley and 533 others. Referred to the Government for consideration.

Decisions of Government

"The law on adoption needs a balancing of the interests of the child, the natural parents and the adoptive parents. The parties to any adoption may suffer from varying degrees of anxiety and distress and altering the law will not solve that problem. However a further review of the legislation (the last review was 20 years ago) is to be made, at which time requests in the petition can be carefully evaluated together with representative viewpoints from all interests parties." *House Journal* 1978 Petitions Report p11-12. The Petition included 90 page documentation. GC.Vol.21p6532-6624.

Questions

16/12/1977 Question for written answer. Adoption Act access to birth records

Hon W W Freer (Mt Albert Lab) asked the Minister of Justice: Is it intended to amend the Adoption Act 1955 to allow adopted persons greater access to information relating to their natural parents?

Hon David Thomson (Minister of Justice Nat) replied: I do not expect to have an amending Bill on the legislation programme next session. Nevertheless, the question of allowing adopted persons to have access to their original birth records will be carefully examined in the course of the next review of the Act." **Source** Q48 *NZPD* Vol.416 p5472

25/5/1978 Question for oral answer adoptions access to records

Mr Hunt (New Lynn Lab) to the Minister of Justice: "Will he be introducing an amendment to section 23 of the Adoption Act 1955 this year, and, if not, why not?"

Hon David Thomson (Minister of Justice Nat) replied: "The answer to the honourable member's question is that the Government will not be introducing an amendment to section 23 of the Adoption Act 1955 this year. The question of access to adoption records is clearly contentious. The Government, therefore, intends to give careful scrutiny to all points of view in the community before determining its policy on the matter."

Source Q11 *NZPD* Vol.417 25/5/1978 p303

The questions were raised only by Labour members. The ruling National government of Mr Muldoon was against

the proposed reform. The promised review the Adoption Act 1955, was perceived by reformers as but a device to delay reform for years. The only way to effectively place the matter before Parliament for a full debate was by moving a Private Members Bill.

Four Adoption Bills

There were four adoption information Bills. The following is only a brief summary of the procedures and debates. Refer to *Hansard NZPD and House Journals* for full texts.

Jonathan Hunt Labour member for New Lynn, led the thrust in Parliament. He is not an adoptee or member of the adoption triangle but espoused the cause. He vowed to continue introducing Bills until reform was achieved.

25/8/1978 Adoption Amendment Bill No.1

First Reading

Mr Hunt (New Lynn Lab). Introduced his private members 'Adoption Amendment Bill,' with a detailed summary of arguments for access to information.

Hon David Thomson (Minister of Justice Nat) Opposed the measure at this point in time. Better to wait until the whole adoption Act is reviewed. Also concerned re privacy and possible mischief. The Bill should not be referred to a select committee for study.

Mr Prebble, (Auckland Central Lab) Supported Bill. Adoptees are already tracing their origins, there is a real need to provide proper legal means. Should refer to select committee.

Hon H J Walker (Minister of Social Welfare Nat) Opposed the Bill at this point in time. He claimed that in England 98%* of adoptee applications under their Act were for health records alone. The Bill should not at this stage be referred to a select committee.

Dr Wall (Porirua Lab) Supported the Bill. Accused the Ministers who on one hand advocate wide study and input, and then say, "for God's sake do not let it happen, the Bill will not be referred to a select committee."

Mr Malcolm (Eden Nat) Mediating approach, balancing views, needs more study, move slowly. "I can see nothing but harm coming from an absolute right to know".

Mr Hunt summed up the debate, then moved, seconded by Mr R Marshall, "I move, That the Adoption Amendment Bill be referred to the Social Services Committee, the proceedings of the committee during the hearing of evidence on the Bill to be open to accredited representatives of the news media." Motion negated.

Source *NZPD* Vol.420. 25/8/1978 pp2904-12.

"The Question passed in the Negative, and the Bill was set down for second reading on Wednesday 20th September." It never appeared on the Order Paper and thus automatically lapsed at the end of the 1978 Parliamentary Session. **Source** *House Journal* 25/8/1978 p177

[*98% No evidence produced. I referred the matter to authorities in England. It bore no relationship to their own research. Also the information supplied in UK is restricted to the original birth certificate and that contains no medical information KCG]

Schedule — Four Adoption Information Bills 1978-1985										
Year	Short Title	Member in charge	First Reading	Referral to Select Comm.	Report of Select Comm.	Second Reading	Comittal	Report	Third Reading	Remarks
1978	Adoption Amend-ment. No.1	Jonathan Hunt	25/8/78	—	—	—	—	—	—	Lapsed
1979	Births Deaths Reg Amend. No.2	Jonathan Hunt	12/10/79	—	—	—	—	—	—	Lapsed
1980	Adult Adoption Information No.3	Jonathan Hunt	5/9/1980	5/9/1980	—	—	—	—	—	Held over
1981	Adult Adoption Information No.3	Jonathan Hunt	5/9/1980	5/9/1980	—	—	—	—	—	Held over 23/10/81
1982	Adult Adoption Information No.3	Jonathan Hunt	5/9/1980	5/9/1980	19/8/82	—	—	—	—	Held over 17/12/82
1983	Adult Adoption Information No.3	Jonathan Hunt	5/9/1980	5/9/1980	19/8/82	25/10/83	—	—	—	Held over 16/12/83
1984	Adult Adoption Information No.3	Jonathan Hunt	5/9/1980	5/9/1980	19/8/82	25/10/83	—	—	—	Lapsed
1984-85	Adult Adoption Information No.4	Fran Wilde	21/9/84	21/9/84	26/6/85	7,14/8/85	21/8/85	21/8/85	11/9/85	Royal Assent 13/9/85
1984-85 McLean Amendment			2/10/84	26/6/85	[Defeated at Committee Stage 21/8/85]					

12/10/1979 Births Deaths and Registration Amendment Bill No.2

First Reading: *Mr Hunt (New Lynn-Lab)* Introduced his private members Bill and gave a detailed analysis of the Bill.

Hon J K McLay (Minister of Justice Nat) Opposed the Bill at this point in time. It requires a full review of the Act, with much wider consultation. The Webb 1979 Report is insufficient. The Adoptive parents need to be consulted and birth parents may be exposed to “potential tyranny”.

Mr Lange (Mangere Lab) Supported the Bill. Gave overview and answered some concerns.

Mr Malcolm (Eden Nat) Took mediating position, raised some concerns. The majority who don't need the Bill should not be disadvantaged by a minority that do.

Mr Palmer (Christchurch Central Lab) Strongly supported the Bill and clarified some issues.

Mr East (Rotorua Nat) Supported Bill on balance and suggested it be referred to a select committee for study and public input.

Dr Wall (Porirua Lab) Was upset by Jos Shower's book 'Death by Adoption'. Also, in his 35 years of medical practice, “I have never known a balanced and serious woman who wanted to know what had happened to her child after it had been given in adoption. An emotionally stable woman who has given a child in adoption would have come to terms with her decision many years before in its legality and irrevocable finality.”

Mr E S Holland (Fendalton Nat) Opposed Bill at this point in time, there were questions not yet answered.

Mr Hunt summed up the debate.

Then, “Mr. Hunt moved, seconded Mr Marshall, That the Bill be referred to the Statutes Revision Committee, the proceedings of the Committee during the hearing of evidence on the Bill to be open to accredited representatives of the News Media.” Motion negatived.

Source NZPD Vol.426 12/10/1979. pp3513-24.

“The motion passed in the Negative. The Bill was set down for second reading next sitting day.”

Source House Journal 12/10/1979 p296.

It never appeared on the order paper and automatically lapsed at the end of the 1979 Parliamentary Session. KCG

5/9/1980 Adult Adoption Information Bill No.3 First Reading

Mr. Hunt (New Lynn Lab) introduced his Private Members Bill and gave a detailed analysis of the content and rationale.

Hon David Thomson (Minister of Justice Nat) Distanced himself and Government from Patricia Webb's 1979 Justice Department commissioned Report. While he had strong reservation about the Bill he would support its referral to the Statutes Revision Committee.

Mr Palmer (Christchurch Central Lab) Gave an exposition of the Bill and strongly supported it.

Hon G F Gair (North Shore Nat) Supported Bill and referral to Statutes Revision Committee.

Mrs A Hercus (Lyttelton Lab) Strong support for the Bill and spoke from a Womens point of view.

Mr McLean (Tarawera Nat) Spoke as an adoptive parent against the Bill. “The Bill harks back to old magical relationships through blood” and will damage stability and

security as the child looks forward “to the day when the great secret will be revealed.” Adoptees don’t have two sets of parents. “We need new words. The words ‘sire’ and ‘dam’ have been suggested, but I believe they have a pejorative sense; we need to look for words like ‘begetter’.” at p3234.

Dr Wall (Porirua Lab) Supported the Bill.

Mr Thompson (Horowhenua Nat) Would prefer to wait until full review of Adoption Act it needs much more debate.

Mr Caygill (St Albans Lab) Supported the Bill.

Mr Malcolm (Eden Nat) Summed up debate and moved. “That the Adult Adoption Information Bill be referred to the Statutes Revision Committee for recess study, and that the proceedings of the Committee during the hearing of evidence be open to accredited representatives of the news media.” Motion agreed to. *NZPD* Vol.433. 5/9/1980 pp3227-3240.

House Journal “Leave to introduce a Bill:- The notice of motion for leave to introduce the following Bill was called on: Adult Information Bill Jonathan Hunt. Debate. The Question being put, the Bill was introduced and read a first time.

On the motion of Jonathan Hunt, seconded Mr Marshall, Resolved- That the Bill be referred to the Statutes Revision Committee, the proceedings of the Committee during the hearing of evidence on he Bill to be open to accredited representatives of the new media.

Source *House Journal* 5/9/1980 p168.

5/9/1980 Referral to Statute Revision

Call for public submissions on Bill, advertised in National Daily Newspapers, October 1980. 102 submissions received. Hearings were held April 1, March 17,18th, 1981.

23/10/1981 Bill held over to next session

Hon David Thomson (Leader of the House Nat) I move, “That the following Bills. Adult Adoption Information...be carried forward to the next session of Parliament.” Motion agreed to. **Source** *NZPD* Vol.422. 23/10/1981 p4345

31/3/1982 Delay and frustration

There was increasing evidence that progress on the Bill was being intentionally stalled. Geoffrey Palmer wrote to Jonathan Hunt on 31/3/1982. “Re Adult Adoption Information Bill.

1 There are now 154 submissions on this bill and there have been a large number of new ones recently.

2 On 11/3/1982 Parliamentary Counsel wrote to the chairman of the Select Committee saying that: no progress has been made with the drafting of the bill; there was no record that Parliamentary Counsel Office had ever been asked to do anything with the bill; that relevant policy decisions had not been taken; and that a direction from the Attorney-General was necessary if the office was to draft the bill. These things do not appear compatible with the Minutes of the Committee on 26th August 1981* and the Press Statement issued by the chairman at that time...

3 The Attorney General has now instructed Parliamentary Counsel’s Office to do the drafting...**6** My interpretation is that Government is not enthusiastic...*G Palmer.*”

Source [*Minutes of Committee held in Room G22 at 10am Wed 26th August 1981 “It was agreed that Parliamentary Counsel...be asked to draw up a New Bill..” Letter and minutes in KCG Collection]

19/8/1982 Statutes Revision Committee Report

The Adult Adoption Information Bill had been before the Committee since 5/9/1980,t—

It took two years to report back. This was mainly due to the work being given low priority by the National Government. The Statutes Revision Committee Report was well received. Much work had gone into its preparation, a wide consultation with both public and Departments had taken place.

Mr D M Jones (Helensville Nat) reported on behalf of the Statutes Revision Committee outlining the Bill and main recommendations. Some 150 submissions were received. There would be a conscience vote. Members of the Committee reserved their positions, but had voted for the measure to proceed as amended, although some may be totally opposed to it.

Mr Hunt (New Lynn Lab) Thanked the Statutes Revision Committee for their work, and all others who had assisted. He understood it would lie upon the table for a periods of two months to allow full study.

Mr McLean (Tarawera Nat) Gave notice of amendment to transform the effect of Bill into a contact register. Only when both parties of their own volition placed their names on the contact register will contact be made. He was unhappy with the term ‘Birth parent’, preferring ‘biological parent.’

Mr Palmer (Christchurch Central Lab) Supported the Bill.

Hon V S Young (Minister of Social Welfare Nat) Gave cautious acceptance of the Bill, awaiting more examination.

Mr Knapp (East Coast Bays SC) Strongly supported the Bill.

Mr D M Jones (Helensville Nat) Summed up debate, answering some concerns. Moved “The Report do lie upon the table.” Agreed.

Source *NZPD* Vol.445. 19/8/1982 pp2335-2341.

27/9/1982 Prime Ministers press conference

Mr Muldoon reported, Cabinet had discussed the Adult Adoption Information Bill. He explained the Bill, and that members of Parliament were receiving a lot of representations. Various organization by in large support the Bill but there are some strong representations against. It will be a conscience vote. “My guess is the majority of Government Members are going to vote against it at this stage...that is the feeling I get.” Press— “What about your position Prime Minister?” Answer “I’m against it, as is the Minister Mr McLay.” Post Cabinet Press Conference 27/9/1982 The statement provoked strong editorial comment and letters in the main Newspapers.

The next day *Mr McLay (Minister of Justice Nat)* in an interview with 'Radio Rhema', Wellington reporter Nigel Barnard, expressed his opposition to the Bill, mainly on grounds of breach of secrecy. "So much so that when I was in practice as a lawyer I was able to give a categorical assurance to those young women who asked me when I was taking a consent on an adoption that in fact they could never be traced."

Source Radio Rhema Broadcast tape transcript 28/9/1982.

17/12/1982 Bill held over to next session

Hon David Thomson "Business held over: I move the Adult Adoption Information Bill be carried forward to the next session of Parliament." Carried.

Source NZPD Vol.449. 17/12/1982 p5801.

[It was now clear by straw vote that there was sufficient support in the House to pass the Second Reading. All attempts to allow a second reading were frustrated until October 1983. KCG]

25/10/1983 2nd Reading

Mr Hunt (New Lynn Lab) "I move, That this Bill be now read a second time." This was the fourth Adoption Bill in the series of attempts to change the law. He had received over 2,000 letters mostly in support of the Bill. Persons were welcome to inspect his files provided confidentiality was maintained. Surveys conducted by members indicated the support he had expected for the Bill. Gave a detailed appraisal of the Bill with amendments explained. Summarised experience of other countries granting access to information. In England some 9,000 adult adoptees had accessed their birth information, there had been no significant complaints.

Mr McLean (Tarawera Nat) Opposed the Bill as it stood. The right to privacy exceeded the right to know the truth of origins. He proposed an amendment that would have the effect of turning it into a contact register. Both parties would have to register of their own volition before any exchange of identifying data could be made. Vetos should remain valid for all time unless the person who placed it, lifted it. His mail bag was a very mixed response. He claimed the State had guaranteed privacy and that guarantee should be preserved.

Dr Wall (Porirua Lab) Supported the Bill as a forward step in multicultural relations. Maori and Island communities have always been open about adoption origins. He argued the need to know origins was important to prevent incestuous marriages. Adoptees had a right to know if they were committing incest. Open adoption by Maori and Polynesian has been a success that others can learn from. Disclosure could be traumatic to some, but that was happening now without the Bill. The Bill provides an ordered process with counselling help, and overcame back door methods. He was not surprised that some adoptees did not ask about their origins, when the legal and social attitude is that they should not know the truth. Adoptees had got the message not to ask!

Hon R Muldoon (Prime Minister Nat) Spoke strongly against the Bill. He supported above all the right of the birth mother to secrecy. He would vote against the Bill. If it was

not voted out he would vote for the McLean amendment.

Mrs Hercus (Lyttelton Lab) Supported Bill as a balancing of rights. It is not without difficulty. It is a compassionate attempt to minimise the difficulty and agony that exists now. Unless an effective Bill is passed, we will continue with the present hit and miss haphazard approach.

Mr V S Young (Minister of Social Welfare Nat) Strongly opposed the Bill, supported the McLean amendment. "Who am I, and what is the law, to say today 5, 10, 15, 20, or 25 years after an agreement has been made and when secrecy has been pledged, that that pledge shall be subverted?" The Bill would "bring about irrevocable damage."

[As Minister of Social Welfare who would be responsible for administering the Bill, the Social Welfare Departmental opposition to the Bill at that time can be understood. KCG]

Fran Wilde (Wellington Central Lab) Strongly supported the Bill. As an adoptive parent she had been an active member of the Wellington adoption support group. The Langridge 1982 study indicated only two percent of birth parents were wanting absolute vetos. The opponents of the bill were allowing the needs of 2 % to dominate their concern and ignoring the other 98%. Children are not possessions, at the age of 20 they should have the full rights of every other person. Answered the Cinderella syndrome raised by McLean, the adoptee without knowledge of origins cannot resolve issues.

Hon M Couch (Minister of Maori Affairs Nat) Opposed the Bill and supported the McLean amendment.

Hon Mrs Tirekatene-Sullivan (Southern Maori Lab) Opposed the Bill. The right of the birth mother to secrecy should prevail over the right of the adoptee to know their genetic heritage.

Mr Bell (Gisborne Nat) Opposed the Bill. He conducted a survey that revealed 12.5% support for the Bill, and 62.5% against. 22% supported the McLean amendment. 3% said Bill should only apply to future adoptions.

Mr Wetere (Western Maori Lab) Supported the Bill. Maori people have learnt to cope with adoption in line with the principle of the Bill. People who are desperately seeking their identity should be given that right.

Mt T de V Hunt (Pakuranga Nat) Supported the Bill. The child has never been consulted. I believe the right to know one's ancestors is a basic right. The birth mother had a choice but the child was given no choice. Every person has a right to know who they are.

Mrs Batchelor (Avon Lab) Opposed the Bill. Argued for retaining status quo. We tamper too much with the law on issues such as this.

Mr Minogue (Hamilton West Nat) Opposed the Bill, on grounds of 'there can be no retrospective change to the law'. Also the assurances he had given as a solicitor re secrecy.

Mr de Cleene (Palmerston North Lab) Supported the Bill, as a lawyer who had handled 400 to 500 adoptions. He had previously been quite concerned about the Bill, but had spoken with several English solicitors and found that there was no real evidence of any great difficulty with the law

change similar to the Bill. If it works well in England there is every reason to believe it will work likewise in New Zealand

Mr Jonathan Hunt then summed up the debate and moved—

“That the Bill be now read a second time”

Ayes 53 Angus. Batchelor. Beetham. Birch. Braybooke. Burke. Butcher. Colman. Connelly. Cox. Cullen. de Cleene. Douglas. East. Elworthy. Gair. Gerbic. Goff. Hunt.J. Hunt.T. Isbey. Jeffries. Kidd. Kirk. Knapp. Luxton. McClay. McLean. Marshall. Maxwell. Moore. Moyle. Neilson. Palmer. Prebble. Quigley. Richardson. Rodger. Tapsell. Templeton. Terris. Thompson. Tizard. Townsend. Upton. Wall. Wilde. Woollaston. Young T. Young V S.

Noes 17 Austin H.N. Banks. Bell. Couch. Falloon. Friedlander. Jones.N.P. Jones DMJ Lee. MacIntyre. Malcolm. Minogue. Muldoon. Thomson. Tirekatene-Sullivan. Wellington.

Majority for 36

Source NZPD Vol.454. 25/10/1883 pp3398-418.

[However, some who voted for the 2nd Reading indicated they would vote later for the McLean amendment that could make the Bill in effect unworkable. KCG]

16/12/1983 Attempt to stop Adult Adoption Bill

At the end of the Parliamentary session the Hon David Thomson moved the list of business that was to be carried over into the next session. The Adult Adoption Bill was omitted. A heated debate took place. It was obvious the omission was not an oversight, but a deliberate attempt to block the passage of the Bill through to a conscience vote. It was put to the vote and agreed that the Adult Adoption Bill be carried over to next session.

Ayes 53 Angus. Arthur. Austin W.R. Bassett. Bachelor. Beetham. Braybooke. Burdon. Butcher. Caygill. Colman. Connelly. Cullen. de Cleene. Douglas. East. Gerbic. Goff. Gregory. Hercus. Highet. Hunt.J. Hunt TdeV. Isbey. Jeffries. Knapp. Lange. McClay. McKinnon. Marshall. Moore. Moyle. Neilson. O'Flynn. Palmer. Prebble. Quigley. Rodger. Rowling. Shearer. Shields. Tapsell. Terris. Thompson. Upton. Wall. Waring. Wetere. Wilde. Wilkinson. Woollaston. Young TJ.

Noes 23 Allen. Austin HN. Banks. Bell. Birch. Bolger. Couch. Elworthy. Falloon. Gair. Gray. Jones DM. Jones NP. Kidd. Lee. MacIntyre. Malcolm. Talbot. Templeton. Thomson. Tirikatene-Sullivan. Wellington. Young VS.

Majority for 30. Amendment agreed to.

Source NZPD Vol.455. 16/12/1983 pp5043-5046.

[Note Having been on the spot at the time, there was obvious tension building up in National caucus. Muldoon, Thomson and supporters made strenuous moves to prevent the Bill coming to a definitive vote. Others in caucus, even those against the Bill were insisting it must come to a vote. The numbers to pass the Bill were now present, and the Prime Minister knew it. The Adult Adoption Bill was not allowed to rise to the debating stage on the Order Paper until after the defeat of the Muldoon Government. KCG]

**National Government replaced by Labour.
Adult Adoption Information Bill Lapsed**

The Third Session of the 40th Parliament ended on 14/6/1984 when the Muldoon National Government resigned. Parliament dissolved and the Bill lapsed. NZPD Vol.455. 16/12/1983 pp5043-5046 The National Government was defeated at the polls and replaced by a Labour Government. The 1st session of this 41st Parliament was held on 15/8/1984.

**21/9/1984 Adult Adoption Information Bill No.4
First Reading**

The original Bill had lapsed on the defeat of the National Government. A new Bill had to be introduced and the whole procedure of three readings and submissions to the Statutes Revision Committee repeated again.

Fran Wilde (Wellington Central Lab) Introduced the Bill because Mr Hunt had become a Cabinet Minister and it was no longer appropriate for him to promote a Private Members Bill. I move, “That leave be given to introduce the Adult Adoption Information Bill.”

This is the sixth time the Bill has been introduced. This Bill was a copy of the one given a second reading late in 1983 with three minor amendments.

— She said this Government had no intention of blocking the passage of the Bill, and gave a detailed analysis of the Bill.

— She Claimed the previous Statutes Revision Committee received 80 submissions, 57 supporting the Bill and only 13 opposed. In UK over a period of 10 years and a survey of 500 applicants showed the sustained primary loyalty to adoptive parents was a marked characteristic. Neither had there been any major problems with birth parents.

Moved the Bill be referred to a Select Committee. [Fran Wilde, is an adoptive parent and a foundation member of the Wellington adoption support group movement].

Hon J McLay (Acting Leader of Opposition Nat) Opposed the Bill. “As a lawyer who in practice took a number of consents from women who were adopting children out and sought my assurance that they could not subsequently be traced, I respect those concerns. I will vote for the Bills introduction and referral, and then vote for the McLean Amendment.”

Hon Jonathan Hunt (Minister of Broadcasting Lab) Had received more than 4,000 letters on the Bill. Persons may inspect them provided confidentiality is maintained. About 90% of members of the adoption triangle are in favour of the Bill. This is confirmed by other surveys in New Zealand.

Mr McLean (Tarawera Nat) Opposed the Bill. “The law protected privacy is a guarantee, and it must be preserved.” He would move his amendment at a later stage.

Mr Knapp (East Coast Bays SC) As a member of the select committee that heard all the submissions that overwhelmingly supported the Bill I support it. Declared, he is an adoptive parent and opposed to the Maclean amendment. *Mrs Batchelor (Avon Lab)* Supported the Bill going to a

select committee but was concerned at insufficient representation from birth mothers and measures for their veto protection were inadequate.

Mr Luxton (Matamata Nat) Supported referral to the select committee. Too often in the past similar Bills have gone off the bottom of the Order Paper into the 'too hard' basket. Adoptees have a right to know their biological background.

Mr Peters (Tauranga Nat) Strongly opposed the Bill for breach of privacy, breach of contract, silence must not be construed as consent. The fact that the adoptee was never consulted in the contract or were silent is irrelevant. Birth mothers must have the priority right.

Hon Tirikatene-Sullivan (Southern Maori Lab) Opposed the Bill and supported the McLean Amendment. As one who was "a party to giving an unequivocal undertaking to many birth mothers that their confidentiality and identity would be respected in their future...in fact for ever, if that was their wish" Believed abortion may increase if confidentiality was not preserved.

Hon V S Young (Waitotara Nat) Opposed the Bill and supported the McLean amendment. A mutual contact register is the right answer.

Fran Wilde (Wellington Central Lab) Summed up debate. Moved the Bill introduced and read a first time. Motion agreed to.

Source NZPD Vol.457. 21/9/1984 pp433-442

21/9/1984 Referred to Statutes Revision Committee

Further "I [*Fran Wilde*] move, That the Adult Adoption Information Bill be referred to the Statutes Revision Committee for study, and that the proceedings of the committee during the hearing of evidence be open to accredited representatives of the new media." Motion agreed to.

Source NZPD Vol.457. 21/9/1984 p442

2/10/1984 McLean amendment referred to Statutes Revision Committee.

Mr de Cleene (Palmerston North Lab) "I am directed to report that the Statutes Revision Committee has resolved that the House be asked to refer to the committee the supplementary order paper that stands in the name of the member Tarawera.." Moved the report do lie upon the table- submission called both on the Bill and proposed amendment. Motion agreed to.

Source NZPD Vol.457. 2/10/1984 p736

11/10/1984 Statutes Revision Committee Special Report on Bill and S.O.P.4 Secrecy Provisions

Mr de Cleene (Palmerston North Lab) "I am directed to report from the Statutes Revision Committee, by way of special report on the Adult Adoption Information Bill and Supplementary Order Paper 4," re public submissions.. "being of the opinion that the publication of the witnesses' identity or any information tending to lead to the identity of certain witnesses would be prejudicial to such witnesses' private interests, recommends that the House order

that any such evidence identifying or tending to identify such witnesses to the Statutes Revision Committee on the Adult Adoption Information Bill and Supplementary Order Paper 4, which the Committee determines should remain confidential,* including the actual identity of the witnesses, be sealed, and, on presentation of the committee's report, delivered to the Clerk of the House, to be retained by the Clerk unopened from the date of the report until further order of the House.

Ruth Richardson (Selwyn Nat) Supported the move.

Mr McLean (Tarawera Nat) Supported the measure, and the need to advertise widely.

Mr Knapp (East Coast Bays SC) Supported the measure.

Mr de Cleene (Palmerston North Lab) Assured wide publicity would be given, he would also appear on Morning Report Radio. Submissions must be in by 26 or 28th of October. Motion agreed to.

Source NZPD Vol.458. 11/10/1984 pp1039-1041.

*Committee received 9 Confidential submissions. 3 in favour, 5 against and 1 case of incest. Refer *Appendix to Journals of House of Representatives*. 1984-85 Vol.10. 15, p5.

25/6/1985 Statutes Revision Committee Report

Dr Cullen (St Kilda Lab) presented the Report and moved "That the report do lie upon the table and be adopted and agreed to." He explained the Bill was a conscience vote, the Statutes Revision Committee would not pass any definitive judgement, but be a clearing house for information and examine the drafting. The Committee received 118 submissions, 75 in favour, 21 in favour of the McLean amendment [Transforming the Bill into a contact register], 19 opposed the Bill, 3 had no clear preference.

Mr McLean (Tarawera Nat) Expressed disappointment the Committee was not going to give a detailed assessment of the evidence. Strongly opposed the Bill as it stood and spoke in support of his amendment.

Sir Robert Muldoon (Tamaki Nat) Strongly opposed the Bill. It was retrospective legislation, made women victims, and will increase abortions 50% and would make all adoptions open. The advantages some would gain from the Bill are outweighed by the 'absolute terror' it will create in others. What if an adoptee discovers the birth mother is a prostitute?

Jonathan Hunt (New Lynn Lab) Reported he received nearly 5,000 letters, more than 90% in favour. The Bill provided an effective rational process, in contrast to the present underground system.

Hon J McLay (Leader of the Opposition Nat) Strongly opposed the Bill. It breached confidentiality given by solicitors to birth mothers.

Fran Wilde (Wellington Central-Lab) Countered accusations of Justice Department bias made by Mr McLean. Pointed out all adoption legislation had retrospective effect. Adoptees have lost access by retrospective laws. No evidence of abortion increases. She spoke as an adoptive parent.

Mr Gray (Clutha Nat) Opposed the Bill. It needed to give more consideration to rights of adoptive parents.

Mr Peters (Tauranga-Nat) In opposing the Bill, he accused Government departmental officials of leaking confidential information to adoptees. Raised issue of breach of confidentiality given by solicitors.

John Banks (Whangarei Nat) Opposed the Bill "The Bill will help preserve the shameful mess New Zealand is in... Women are shaking in their shoes because of what the Bill will do to them." The legislation was the work of "trendy lefty liberals who have wheeled in pernicious legislation that will inflict so much pain on so many."

Mr Lee (Hauraki Nat) Found the Bill entirely unsatisfactory and unacceptable. It would undermine the basic philosophy of adoption.

Hon Peter Tapsell (Minister of Internal Affairs Lab) Strongly supported the Bill drawing on Maori experience and perspective.

Mr Anderton (Sydenham Lab) Spoke as an adoptee finding out his Irish heritage. The Child also has rights.

Mr Norman Jones (Invercargill Nat) Supported the Bill. "If I were an adopted child I would spend the rest of my life trying to find out who my birth parents were. If it happened that my mother was a prostitute or I was a child of incest, so be it... I would spend all my wealth and whole working life trying to find out."

Hon T Tirikatene-Sullivan (Southern Maori Lab) Opposed the Bill on the grounds of breach of confidentiality given by social workers to birth mothers.

Hon V Young (Waitotara Nat) Opposed the Bill, in favour of the McLean amendment.

Hon W Birch (Franking Nat) Opposed the Bill and spoke in support of member for Southern Maori opposition to the Bill.

Mr Graham (Remuera Nat) Opposed the Bill and spoke in support of member for Southern Maori. In favour of the McLean amendment.

Mr McClay (Waikaremoana Nat) Both sides of the argument compelling but will vote for McLean amendment.

Hon Mr Bolger (Deputy Leader of Opposition Nat) Opposed the Bill, favours the McLean amendment. Debate interrupted 5.30pm

Source NZPD Vol.463 26/5/1985 pp4930-4947

26/6/1985 Debate resumed

Dr Cullen (St Kilda Lab) Thanked all members who took part in the debate. A division having been called for, and the bell having rung.

Mr Speaker said- "Before the result is read, members should know that the result of the division will have no effect on the continuing passage of the Bill. The question that was voted on was that the report should lie upon the table, so the result will have no effect on whether the Bill has a second reading."

Ayes 52 Anderton. Austin ME. Bassett. Boorman. Burdon. Burke. Clark. Colman. Cullen. de Cleene. Dillon. Dunne. East. Gair. Gerard. Gerbic. Goff. Graham. Gregory. Hercus. Hunt. J. Isbey. Jeffries. Jones. Keall. Kidd. King. Luxton. McClay. McKinnon. Mallard. Matthewson. Maxwell RK. Maxwell RK. Moore. Morrison. O'Flynn. Palmer. Rodger.

Scott. Shields. Storey. Sutton WD. Terris. Townsend. Wallbank. Wilde. Wetere. Woollaston. Young T.J.

Noes 16 Austin HN. Banks. Batchelor. Birch. Bolger. Cooper. Gray. Lee. McLay. McLean. Maxwell RFH. Peters. Tirikatene-Sullivan. Wellington. Young VS.

Motion Agreed to. Majority for 36

Source NZPD Vol.463. 26/6/1985 pp5003-5004

7/8/1985 Second Reading

Fran Wilde (Wellington Central Lab) I move "That this Bill be now read a second time." Gave a summary of the background and legal history of adoption. Secrecy aspects were a more recent implementation.

Mr McLean (Tarawera Nat) Opposed the Bill and gave rationale for his proposed amendment. Spoke from experience as an adoptive parent.

Mr Wallbank (Gisborne Lab) Supported the Bill, spoke from experience as an adoptive parent whose child had gone through hell trying to find the truth of his origins.

Hon Robert Muldoon (Tamaki Nat) Strongly opposed the Bill. Claiming that it would increase abortion, "If the Bill becomes law and there is open adoption. Statistics in the United States prove that the rate of abortion in states that have open adoption is higher than it is in states that do not have open adoption." at p6140. Women would be victims. The Bill would be against the greater good.

Hon Jonathan Hunt (Minister of Broadcasting Lab) "The member for Tamaki used his power in controlling the Order Paper to block the right of a private member to express a point of view. All I wanted was a vote."

Mr Gerard (Rangiora Nat) Was impressed by some of the evidence for the Bill but still had reservations.

Mr Noel Scott (Tongariro Lab) Strongly supported the Bill, and shared his experience as an adoptee and foster child. He pleaded for openness.

Mr Peters (Tauranga Nat) Opposed the Bill. Silence was not consent. Where rights were equal, then the prior right had to prevail. Hence the birth mother right for privacy prevailed over the adoptee right for truth.

Mrs Tirikatene-Sullivan (Southern Maori Lab) Opposed the Bill. The birth mother has the priority right. The Bill loads the decision toward abortion.

Hon V. Young (Waitotara Nat) Opposed the Bill. The Birth mother had the priority right to confidentiality.

Hon F O'Flynn (Minister of State Lab) While he supported the Bill, it could not agree with retrospective effect- therefore he was drawn the McLean amendment. He also drew attention to how Mr Muldoon had used his power to try and stop the Bill being carried over. However the House had voted against his move.

John Banks (Whangarei Nat) Opposed the Bill. Accused Mr J Hunt of trying to overturn the Adoption Act 1955. Reported on the survey he undertook in his electorate, 70% for the Bill and 30% against. Raised his continuing concern for Birth mother confidentiality and that the principles of 1955 Act be upheld.

Hon Gair (North Shore Nat) Spoke in support. Partly from his experience as past Minister of Social Welfare. He believed that when there was a conflict between what is legal and what is just, then justice should prevail. He would vote for the Bill on ground of justice.

Bill Dillon (Hamilton East Lab) Supported the Bill. From his long legal experience he contributed his learning. Answered some objections. On retrospectively, noted that the same applied to Marriage Laws and no strong objections were made.

Mr Gray (Clutha Nat) Reported on a local survey that found about 50% for and 50% against the Bill. Supported the McLean amendment.

Mr Lee (Hauraki Nat) Opposed the Bill and supported McLean amendment. Took a survey in electorate, 66% want change in adoption law. However mainly on ground of privacy protection they oppose the Bill. House adjourned 11pm. NZPD Vol.465. 8/8/1985 pp6132-6158

14/8/1985 Second Reading Resumed debate

Mr Lee (Hauraki Nat) Opposed the Bill. Described the Bill as "legal theft...The Bill is entirely wrong in principle...The Bill is retrospective, and that is repugnant...It does not guarantee privacy." He also envisaged that because a veto automatically expired when a death was registered an adoptee could immediately gain access to information and thus invade the bereaved family gathering. He would support the McLean Amendment.

Mr Burdon (Fendalton Nat) Reported result of his August 1982 survey on the Bill. He sought opinions from 2,500 people. (Every seventh person on his Electoral Roll) 250 wrote back, another 100 telephoned. Replies ranged from tense denunciations to tearful pleas for help to find a birth parent or adoptee. Overwhelmingly, people in the adoption triangle supported the Bill. Without exception, birth mothers wanted to reach children. There was also good support from adoptive parents. However, the member could not endorse the present Bill, as is, because of confidentiality issues. He proposed an amendment, that the Bill be restricting in application to adoptions that took place either before the 1955 Act or after this 1985 Act.

Mr Townsend (Kaimai Nat) Supported the Bill as a workable solution, but people should be informed of their rights when contacted under section 10. Mr Hunt agreed. He found the McLean amendment too restrictive.

Fran Wilde (Wellington Central Lab) Summed up the debate and asked members to vote on the second reading.

House divided on the question, That this Bill be now read a second time.

Ayes 55 Anderton. Bassett. Batchelor. Boorman. Braybrooke. Burdon. Burke. Butcher. Colman. Cox. Cullen. deCleene. Douglas. Dunne. East. Elder. Fraser. Gair. Gerbic. Goff. Graham. Gregory. Hercus. Hunt. Jeffries. Jones. Keall. King. Luxton. McKinnon. Mallard. Marshall C.R. Matthewson. Morrison. Moyle. O'Flynn. O'Regan. Palmer. Prebble. Richardson. Rodger. Shirley. Sutton J.R. Tapsell. Terris. Tizard. Townsend. Upton. Wallbank. Wetere. Wilde. Woollaston. Young T.J.

Noes 19 Austin HN. Austin WR. Banks. Birch. Bolger. Cooper. Friendlander. Gray. Kidd. Lee. McLean. McTigue. Marshall D. Maxwell R. Muldoon. Peters. Smith. Talbot. Wellington.

Majority For 36. Bill read a second time. NZPD Vol.465. 14/8/1985 pp6306-6309

[Note. Some persons voted for the Bill so they could later vote for McLean amendment turning it into a contact register KCG].

21/8/1985 Committee Stages

Hon Geoffery Palmer (Leader of the House Lab) "I move, That Standing Order 299 be so far suspended as to allow members to move, and the Committee to consider whether it thinks fit to adopt, amendments to the Adult Adoption Information Bill, notwithstanding that those amendments may involve an appropriation of public money."

McLean Amendment

Mr McLean (Tarawera Nat) moved his amendment. Supplementary Order Paper 55. The Committee divided on the question, That the amendment be agreed to.

Ayes 20 Austin H N. Austin WR. Banks. Batchelor. Birch. Bolger. Cooper. Friendlander. Gerard. Graham. Gray. Kidd. Lee. McLay. McLean. Marshall DW. Storey. Tirikatene-Sullivan. Wellington. Young V.

Noes 59 Anderton. Austin ME. Bassett. Boorman. Braybrooke. Burdon. Burke. Butcher. Caygill. Clark. Colman. Cullen. Dillon. Douglas. Dunne. East. Elder. Fraser. Gair. Gerbic. Goff. Gregory. Hercus. Hunt. J. Isbey. Jones. Keall. King. Knapp. Lange. Luxton. McKinnon. McTigue. Mallard. Marshall CR. Matthewson. Maxwell RK. Morrison. Moyle. Neilson. Northey. O'Regan. Palmer. Peters. Prebble. Rodger. Scott. Shields. Shirley. Smith. Sutton J.R. Sutton WD. Tapsell. Tizard. Townsend. Wallbank. Wilde. Woollaston. Young T.J.

Majority against 39 Amendment negated Mr Gray (Clutha) moved amendment in Supplementary Order Paper 56. Amendment negative.

Committee divided on the question, That clause 3 be agreed to.

Ayes 53 Anderton. Austin ME. Bassett. Boorman. Braybrooke. Burke. Butcher. Caygill. Clark. Colman. Cullen. Dillon. Douglas. Dunne. Elder. Fraser. Gair. Gerbic. Goff. Gregory. Hercus. Hunt. J. Isbey. Jones. Keall. King. Knap. Lange. Luxton. McKinnon. Mallard. Marshall CR. Matthewson. Maxwell RK. Morrison. Moyle. Neilson. Northey. O'Regan. Palmer. Prebble. Rodger. Scott. Shields. Shirley. Sutton J.R. Sutton WD. Tapsell. Tizard. Townsend. Wallbank. Wilde. Woollaston. Young T.J.

Noes 27 Austin HN. Austin WR. Banks. Batchelor. Birch. Bolger. Burdon. Cooper. Friendlander. Gerard. Graham. Gray. Kidd. Lee. McLay. McLean. McTigue. Marshall D. Peters. Smith. Story. Talbot. Tirikatene-Sullivan. Wellington. Young VS.

Majority For 26. Clauses 1, 2, 4 to 9 agreed to. Clause 10 Departmental assistance in approaching parent or child. *Mr Townsend (Kaimai)* moved the amendment set out on Supplementary Order Paper 53. Amendment agreed to,

and clause as amended agreed to. 4.26pm. Clauses 11>15 agreed to. Bill reported with amendment.

Source NZPD Vol.465. 21/8/1985 pp6503-6504.

11/9/1985 Third Reading

Jonathan Hunt (Minister of Broadcasting Lab) On behalf Fran Wilde, moved, "That this Bill be now read a third time." It is almost seven years since I first introduced my first Bill on the subject. Gave special thanks to Dave McGee (Clerk of the House for Legal advice). Keith Griffith (Research) and Mrs Bowden (Social work).

Sir Robert Muldoon (Tamaki Nat) Reaffirmed his strong opposition. Also denied he had used any power improperly in thwarting the Bill, or had any personal interest in the Bill. He was moved by the plight of "woman who were terrified of the Bill", and "retrospective legislation of the worst kind." Claimed he knew of persons having abortions because the possibility the Bill would become law. He saw the Bill as liberalism, that could destroy families.

Helen Clark (Mt Albert Lab) Supported the Bill as a measure that could help overcome the stigma and secrecy of adoption. Times had changed, there is now a much more healthy openness by all members of the adoption triangle, as was evident at the Select Committee hearings.

Hon V S Young (Waitotara Nat) "The Bill now represents one of the most appalling examples of retroactive legislation that I have seen come before the House."

Mr McKinnon (Rodney Nat) Spoke on behalf of Mr Burdon. Regretting that his amendment had not been passed that would have passed the Bill but limited its application to future adoptions.

Mr Townsend (Kaimai Nat) Supported the Bill. While there was concern about the issue of sanctity of contract, it was people that were all important, and from the reunions in his electorate and positive results he would support the Bill. No generation should be denied its own ancestry.

John Banks (Whangarei Nat) The Bill "is the first stage of an ongoing saga that will disrupt the moral fabric of the nation and the family unit. The Adoption Act 1955 is about to be overturned." People want some change, but not this liberal social legislation. *Mrs Batchelor (Avon Lab)* Opposed the Bill as it altered rights of birth mothers retrospectively. She would vote for the Bill if it only applied to future adoptions.

Paul East (Rotorua Nat) "I am a lawyer" -opposed the Bill on grounds that solicitors have promised birth mothers that confidentiality would remain. "They assured those natural mothers that they had the full force and support of the law in New Zealand, and that it was sacrosanct and would not be changed...It will tear from the hearts of those natural mothers the rights they previously enjoyed."

Mrs T Tirikatene-Sullivan (Southern Maori Lab) Opposed the Bill as a breach of confidentiality re birth mothers and retrospective legislation. "I make one final plea. If an unmarried woman, often a young girl, cannot feel free to place her child for adoption the House is driving her to the inexorable decision of having an abortion."

Judy Keall (Glenfield Lab) Sought to answer some of the

criticisms. As a member of the select committee she found about two thirds of submissions supported the Bill. The evidence for was based on sound research. The claim that retroactive legislation should not be passed. The Adoption Act 1955 was retrospective, when it brought down the curtain of secrecy on all past adoptions. Members of the adoption triangle lost rights of access to information by retrospective legislation 1955. The present legislation will restore some of the rights lost by retrospective legislation.

Mr Peters (Tauranga Nat) Opposed the Bill mainly on grounds of breach of confidentiality and contract with birth mothers. "I am on the side of feminine experience." He also said he changed sides on this issue since he first entered Parliament. There were some spats with David Lange during his speech.

Hon Jonathan Hunt (Minister of Broadcasting Lab) Summed up the argument for the Bill and sought to answer critics. This is an issue that has been before the House for 7 or 8 years, plenty of time to access the issues involved and be prepared for voting.

The House divided on the question, That this Bill now be read a third time

Ayes 51 Anderton-Lab. Austin M-Lab. Bassett-Lab. Boorman-Lab. Braybrooke-Lab. Burke-Lab. Caygill-Lab. Clark-Lab. Colman-Lab. Cullen-Lab. Douglas-Lab. Dunne-Lab. Elder-Lab. Fraser-Lab. Gerard-Nat. Gerbic-Lab. Goff-Lab. Gregory-Lab. Hercus-Lab. Hunt.J-Lab. Isbey-Lab. Jones-Nat. Keall-Lab. Lange-Lab. Luxton-Nat. McClay-Nat. Mallard-Lab. Marshall CR-Lab. Matthewson-Lab. Maxwell RK-Lab. Moore-Lab. Morrison-Lab. Moyle-Lab. Neilson-Lab. Northey-Lab. O'Regan-Nat. Prebble-Lab. Richardson-Nat. Rodger-Lab. Scott-Lab. Shields-Lab. Sutton JR-Lab. Sutton WD-Lab. Tapsell-Lab. Terris-Lab. Townsend-Nat. Upton-Nat. Wall-bank-Lab. Wetere-Lab. Woollaston-Lab. Young T-Lab

Noes 25 Austin HN-Nat. Austin WR-Nat. Banks-Nat. Batchelor-Lab. Birch-Nat. Bolger-Nat. Cooper-Nat. Cox-Nat. East-Nat. Friendlander. Graham-Nat. Gray-Nat. Kidd-Nat. Lee-Nat. McKinnon-Nat. Marshall D.W.A-Nat. Muldoon-Nat. O'Flynn-Lab. Peters-Nat. Smith-Nat. Story-Nat. Talbot-Nat. Tirikatene-Sullivan-Lab. Wellington-Nat. Young VS-Nat.

Majority For 26. Bill read a third time.

Source NZPD Vol.465. 11/9/1985 pp6701-6712

Adult Adoption Information Act 1985 No127

Enacted 13/9/1985. Sections 4,6,8,9 came into force 1/9/1986. Remainder of Act came into force 1/3/1986.

Issues in the Adoption Information Bill debate Conscience vote and party lines?

The Bills were declared a conscience vote. Members were free to debate and vote by their own conscience. It was a non-party issue. During the debate several members claimed that the debate and vote was being shaped along party lines. To examine this issue I have included the party affiliation of each speaker in the debates. It has also been claimed that the final vote was clear evidence of Party influence and control.

The Final vote on the Bill 11/9/1985			
	Labour	National	Total
For	43	8	51
Against	3	22	25

While the voting table could indicate party pressure I don't believe it was ever the major factor. I was present during most of the debates, and in close contact with many MPs of both sides of the House, and both sides of the debate. The high profile opposition of the Prime Minister, Mr Muldoon, supported by his Minister of Social Welfare and Minister of Justice plus a key grouping in National Cabinet was a major factor in the debate. But both sides of the debate each had a small well organized group seeking support. I examined the issue and came to the conclusion that it was much more a meeting of like minds and concerns that coalesced into two groups. The split was more along the lines of Conservative and Liberal, and reflected these elements in the two parties, rather than the result of party pressure. There was canvassing for support by both sides, but I was never aware of any attempt to apply any party pressure on members by either political party.

Public Submissions Classified in response to the Principles of Bill			
1984 Submissions	FOR	AGAINST	TOTAL
Adoptive parents	11	14	25
Adoptees	22	0	22
Birth parents	27	1	28
Unknown status	6	11	17
Groups	14	2	16
Neutral	-	-	1
TOTALS	80	28	109
McLean Amendment	21	56	77
1980 Submissions	FOR	AGAINST	TOTAL
Adoptive parents	22	11	33
Adoptees	69	0	69
Birth parents	27	1	28
Grandparents etc	9	-	9
Groups	13	1	14
Social Workers	6	1	7
Legal Profession	1	4	5
TOTALS	147	18	165
The submissions where of good standard from a wide range of people. There is no evidence of any attempt to stack results, either way, by form letter submissions. The weight of the submissions were clearly in favour of the Bill by a factor of approximately 2/3 for and 1/3 against. It is interesting to note a similar weighting in the Parliamentary voting on the Adult Adoption Information Bill.			

McLean Amendment

Supplementary Order Paper No.4 27/9/1984.

The Amendment was introduced by Mr Ian McLean, the National member for Tarawera. He moved the amendment as a concerned adoptive parent. He had been opposed to the Bill from its inception. At first he focused on the welfare of the child. Although the debate was about adult adoptees, he always referred to the adopted person as a 'child' regardless of their age. He was an advocate of complete break status quo adoption. He later switched his focus of oppo-

sition from protecting the child to protecting the birth mother's absolute right to privacy. In spite of there being very little support from adoptees or birth mothers for his amendment, he persisted. The main aim of the amendment was quite clearly to render the Adult Adoption Information Bill ineffective. Overseas and local research indicated that the chance of mutual registration by adult adoptee and birth parent was about 5%. To pass legislation that would be ineffective for 95% of the applicants would be irresponsible. The Amendment was clearly an attempt to defeat the purpose and intent of the Bill, and provided no effective alternative.

— He gave notice of his intention to move an amendment at the second reading of the Adult Adoption Adoption Information Bill No.3 NZPD Vol.454 25/10/1983 p3401

— Mr McLean explained his proposed amendment at the first reading of the Adult Adoption Information Bill No.4 and intention to move. NZPD Vol.457 21/9/1984 pp437-438

— The Amendment appeared as Supplementary Order Paper No.4 on 27/9/1984. It was referred to the Statutes Revision Committee. NZPD Vol.457 2/10/1984 p736

— special report back referring to secrecy of submissions was made to the House and granted. NZPD Vol.458 11/10/1984. p1039. (v) The McLean amendment was defeated at the Committee stage. Ayes 20, Noes 59, Majority against 39. Source NZPD Vol.465 21/8/1985 pp6503-6504.

Effects of amendment

— Transforms Bill to contact register

By reversing the endorsement process. Under the Bill: provided there is no veto endorsement, birth origins information will be made available to the adult adoptee, subject to counselling. Under the amendment: No identifying information will be released to adult adoptees unless the birth parent concerned has, of their own volition notified the Registrar-General giving their permission to release the information. The same provision applies to access to information by a birth parent re their adult adopted child.

— **Changed definition** 'Birth' parent to 'Biological' parent. Wherever the 'Birth parent' occurs in the Bill, it is to be replaced by the term 'Biological parent'.

— **Extends veto indefinitely** Whereas under the Bill veto endorsements expire after 10 years, unless renewed. Under the amendment veto endorsements remain for all time unless lifted by the person who placed them.

— **Criminal Offense provision** The amendment would create additional criminal offenses. Any (i) Public servant, (ii) Hospital board employee, (iii) Medical practitioner, who obtains identifying information pursuant to the Bill, and discloses the information to any other person otherwise than in accordance with the Bill will on conviction be liable to a fine not exceeding \$1,000.

Bell amendment.

Mr Bell (*Gisborne Nat*) gave notice of intention to move an amendment, that the Bill only apply to future adoptions. He failed to obtain sufficient support and dropped the amendment. Source NZPD Vol.454. 25/10/1983 p3413 cf NZ *Womens Weekly* 12/12/1983 p4

Political opposition to the Bill**Privacy**

The first criticism of the Bill, raised by the Minister of Justice re the 1978 Bill. "The central concern, particularly of section 23 is the privacy of the individual within the family...In my opinion, and also that of the Government, that privacy must not be lightly disturbed...The present law protects the privacy, not only of the adopted child and its natural parents, but also of the adoptive parents. It is not just a case of one person; it is a case of at least five people, because there are other members of the adoptive family to be considered...I ask ...what is the benefit of disturbing the present provisions for privacy, and to whom will the benefit go? Is it a benefit that will do mischief to no one?" In referring to Jigsaw, "I doubt that the name was chosen for entertainment value, or— although this could be argued— because people wanted to disturb privacy out of curiosity." *Hon David Thomson* (Minister of Justice Nat)

Source NZPD Vol.420. 25/8/1978 p2906

Retrospective nature of legislation

Mr Thompson (Horowhenua Nat) This issue was first mentioned in the 1980 Bill. He pointed out the Bill will 'impose itself, as the family proceedings and other legislation does, on existing situations.'"There was an interjection "Retrospectively". *Mr Thomson*, "I do not think that it would necessarily be called retrospective, but it would certainly concern people who have consented to adoptions, or have undertaken adoptions on the assumption of their confidentiality and secrecy and continued stability."

Source NZPD Vol.433. 5/9/1980 p3236

"Adoptions already concluded under the existing law must remain subject to it. I could not support for any reason any suggestion that we can be retrospective in our dealings with people when entered into undertakings and arrangements on the most solemn assurances. Any Bill that retrospectively alters the status of birth mothers or adoptive parents is objectionable to me...there can be no retrospective change in the law." *Mr Minogue* (Hamilton West Nat)

Source NZPD Vol.454. 25/10/1983 p3415

"I am concerned that the Bill is basically retrospective legislation. It will effect people who have made a decision in the past." *Mr Batchelor* (Avon Nat)

Source NZPD Vol.457. 21/9/1984 p439

"I propose to vote against this stage of the Bill. In my view it is a bad Bill...First it is retrospective legislation of the worst kind...The retrospective aspect of the Bill is repugnant to Parliament. I have never felt so strongly about a Bill" *Rt Hon Sir Robert Muldoon*. (Tamaki Nat)

Source NZPD Vol.463. 25/6/1985 p4933

In reply: "We have been told today that this is retrospective legislation but all adoption legislation passed in New Zealand has been retrospective."

"A further legal argument was raised that the Bill had a retrospective effect. Retrospectivity is a ground for objection in the criminal and tax laws. However, the matter is neither criminal nor tax law. The law on divorce and the law of nullity show that retrospectivity is accepted law. When a court declares a marriage null and void it goes back and says that there has been no such marriage. Therefore

the concept of retrospectivity is not uncommon in the law. The member for Whangarei knows of the retrospectivity in the private Bill he promoted— the Longley Adoption Bill. That is a perfect example of the concept of retrospectivity against which he spoke so eloquently in relation to the Bill tonight." *Bill Dillon* (Hamilton East Lab)

Source NZPD Vol.465. 7/8/1985 p6155.

Adoptees ghosts from the past

"women who live in real fear of an approach by ghosts from the past." *Hon J McLay* (Acting Leader Opposition Nat)

Source NZPD Vol.457 21/9/1984 p435

Bill attacks the family unit

"The moral fabric of our society in under threat, the Bill helps to serve that...the Bill will help to preserve the shameful mess that New Zealand is in...Liberal legislation of this kind will serve only to exacerbate the basic problems in our society regarding the family unit...I am concerned about the grave effect the Bill will have on men, women, and families up and down the country. It is a serious matter, and one that has caused much pain and hardship...It is sad that the Government is filled with trendy lefty liberals who have wheeled in pernicious legislation that will inflict so much pain on so many." *John Banks* (Whangarei Nat)

Source NZPD Vol.463 25/6/1985 pp4941-4942

"The Bill...it is the first stage of the ongoing saga that will disrupt the moral fabric of the nation and the family unit. The Adoption Act 1955 is about to be overturned." *John Banks* (Whangarei Nat)

Source NZPD Vol.465 11/9/1985 p6705

Curiosity

Jigsaw. "I doubt that the name was chosen because of entertainment value, or although it may be argued because people wanted to disturb privacy out of curiosity." *Hon David Thomson* (Minister of Justice Nat) NZPD Vol.420. 25/8/1978 p2906

"In many cases the query is a relatively idle one, and having it answered may cause far more pain, for far longer, and to more people, than the failure to get an answer...I can see nothing but harm coming from an absolute right to know." *Mr Malcom* (Eden Nat)

Source NZPD Vol.420. 25/8/1978 p2910-2911

"The curiosity of adopted persons about their natural parents is understandable, but to make it easier to satisfied that curiosity could in some cases bring about irrevocable damage." *Hon V Young* (Minister of Social Welfare Nat) Quoting with approval. L G Anderson former Superintendent of Child Welfare. **Source** NZPD Vol.454 25/10/1983 p3408.

Bill attacks adoption

"A small group of people has attempted to highlight the problems in a way that has tended to denigrate the whole adoption process." *Mr Malcom* (Eden Nat) NZPD Vol.420. 25/8/1978 p2910. "The Bill attacks the fundamental philosophy of adoption. In doing so it attacks the family unit. The philosophy of adoption is security and secrecy." *Mr Lee* (Hauraki Nat) **Source** NZPD Vol.463 25/6/1985 p4942.

Potential tyranny

"I...draw attention to what I see as the potential tyranny that could sometimes result to a woman who now faced,

whether real or imagined, the possibility that the child of that earlier time might come back to her...the words 'potential tyranny' are not too strong." Hon J. McLay (Min-ister Justice Nat) **Source** NZPD Vol.426 12/10/1979 p3516

Birth mother instability

"I have never known a balanced, serious woman who wanted to know what had happened to her child after it had been given in adoption. An emotionally stable woman who has given a child in adoption would have come to terms with her decision many years before, in its legally and irrevocable finality." Dr Wall (Porirua Lab)

Source NZPD Vol.426. 12/10/1979 p3522

Birth mother suffering

"The birth mother who gave her child up for adoption has surely suffered enough, yet she is expected to live in fear and to continue suffering in the Bill as I understand it is passed...Women of the past era had no choice but to deny their children information and to deny to themselves that they had those children. That should be enough suffering." Mrs Batchelor (Avon Nat) NZPD Vol.454. 25/10/1983 p3415. "I have never felt so strongly about a Bill...I cannot recall any legislation that inflicts such mental anguish and cruelty on women whose only offence was a common form of frailty." Rt Hon Sir Robert Muldoon (Tamaki Nat)

Source NZPD Vol.463 25/6/1985 p4934.

Adoptee don't have two sets of parents

"The Bill harks back to old magical relationships through blood" and will damage stability and security as the child looks forward "to the day when the great secret will be revealed." Adoptees don't have two sets of parents. "We need new words. The words 'sire' and 'dam' have been suggested, but I believe they have a pejorative sense; we need to look for words like 'begetter'." Mr McLean (Tarawera Nat) **Source** NZPD Vol.433. 5/9/1980 p3234

Blackmail

"The new law provides opportunity for blackmail by those who handle files, or by children who feel no loyalty to a mother they consider deserted them. Not all children are angels." Hon M Couch (Minister of Maori Affairs Nat)

Source NZPD Vol.454. 25/10/1983 p3410

Rape and incest adoptees

"Examples given...include children born of rape, one fathered by a murderer, and another born to a mentally deficient mother". He cites L G Anderson former Superintendent of Child Welfare. "cited the damage caused to adopted children when they learnt that they were born of an incestuous relationship, that their natural mother was a common prostitute, or their father a notorious criminal...in some cases curiosity was to be preferred to the brutal truth." Hon M Couch (Minister of Maori Affairs Nat)

Source NZPD Vol.454. 25/10/1983 p3411

An answer to above. "If I were an adopted child I would spend the rest of my life trying to find out who my birth parents were. If it happened that my mother was a prostitute or I was a child of incest, so be it. If I were in that position I would want to know. I would spend all my wealth and my whole working life trying to find out, and I would not deny that right to any of my children. I would

not like the right denied to me." Mr Jones (Invercargill Nat) **Source** NZPD Vol.463 25/6/1985 p4943

"There must be many such cases around the country, involving incestuous relationships between brother and sister, or father and daughter." John Banks (Whangarei Nat) **Source** NZPD Vol.465. 7/8/1985 p6153

Legal theft

"My specific criticisms of the Bill are, first, that a change in the law to the degree envisaged by the Bill is legal theft...The Bill is entirely wrong in principle, in so far as it states that silence means consent...The Bill is retrospective, and that is repugnant." Mr Lee (Hauraki Nat)

Source NZPD Vol.465 17/8/1985 p6306

Adoption research and political debate

In stating the case for adoption reform, considerable effort was put into researching the issue. Mr Hunt gave me this task. Material was gathered from authorities in England, Scotland, USA, Canada, Finland, Netherlands, Israel and within New Zealand. The material was published and made available to both sides of the debate. Much of this material was published in my book '100 Years of Adoption in New Zealand 1981'.

The effect of research in political policy making is covered in Iwanek 1991 Thesis. Her conclusion was, "In summary, it appears that the literature and the research findings did not change the views of those with a fixed ideology and belief system based on conservatism, and religiously dominated, paternalistic, moralistic views of the family and the position of women and children in society. MPs were most significantly influenced by the personal stories of those people that had been affected by the policy of secrecy...Members of parliament generally showed they had taken note of the literature, in as far as it backed up their own beliefs and what individuals had told them. Although it was difficult for members of parliament to explain exactly how the information influenced them it appears that they integrated the new information, a way of looking at things with their own values and experiences. Together they merged to form a new perspective or a frame of reference from which they could evaluate the proposals made."

Iwanek draws attention to Weise, "Politics and Evaluation Research Needs", also questioned politicians about the use of research results and to what extent they had been influenced in their decision to support a proposed programme because of research finding. She reports that if research results confirmed what they already believed, decision makers or politicians having to vote on an issue would use it. If the research disclosed something they were predisposed to accepting, then the research is likely to get serious attention...If the research was against what they personally believed, it would be outright rejected or discredited. "Decision makers tend to use research only when its results match their preconceptions and its assumptions accord with their values".

Source Iwanek 1991 Thesis

Promised Review of 1955 Adoption Law**1976 Await review 1955 Act**

“It is my intention that departmental officers should look at this question when considering what general changes should be made in the Adoption Act 1955. When officials have completed their review which on current indications is unlikely to be before the end of next year, Ministers will of course study proposals for policy changes.” Answer to Question of *Dr Martin Finlay* (Henderson Lab) by *Hon David Thomson* (Minister of Justice Nat) Q17

Source NZPD Vol.408. 23/11/1976 p4108

1977 Petition Await review 1955 Act

“However a further review of the legislation (the last was 20 years ago) is to be made, at which time requests in the petition can be carefully evaluated together with representative viewpoints from all interests parties.” Government response to Jigsaw Petition.

Source *House Journal* 1978 Petitions Report pp11-2.

1977 Await review 1955 Act

“The question of allowing adopted persons to have access to their original birth records will be carefully examined in the course of the next review of the Act” Answer to Question of *Hon W. Freer* (Mr Albert Lab) by *Hon David Thomson* (Minister of Justice Nat). Q48

Source NZPD Vol.416. 16/12/77 p5472

1978 Await review

“The Government...intends to give careful scrutiny to all points of view in the community before determining its policy on the matter.” Answer to question by *Mr Hunt* (New Lynn Lab) by *Hon David Thomson* (Minister of Justice Nat) Q11

Source NZPD Vol.417 25/5/1978 p303

1978 Await review 1955 Act

Hunt Bill No.1. “The Government will not oppose the introduction of the Bill, ...but I do not believe that it is appropriate to send it to a select committee. The whole subject and the Act needs much more study.” *Hon David Thomson* (Minister of Justice Nat), *Hon H Walker* (Minister of Social Welfare Nat)

Source NZPD Vol.420. 25/8/1978 p2907

1979 Webb Review shelved

Following the 1978 Hunt Bill the Minister of Justice commissioned a Review on the Law of Adoption- by Miss P Webb, ex chief legal advisor to the Department. To the surprise and shock of key Government officials the report was supportive of the Hunt Bill. The new *Minister of Justice Mr McLay*, distanced himself and Government from its conclusions. The Report was published but in effect shelved.

1979 Await review 1955 Act

Hunt Bill No.2. “I believe that, at this stage, to proceed any further beyond this debate...in isolation, rather than as part of comprehensive legislation to deal with the whole problem of adoption would be inappropriate. For this reason I am not prepared to let the Bill go to a select committee at this stage.” *Hon Mr McLay* (Minister of Justice Nat)

Source NZPD Vol.426 12/10/79 pp3516-3517

That is the story from 1976 to 1979, but it has been an on going saga of procrastination for 19 years. Whenever

questions are asked of politicians as to when the Adoption Act 1955 will be reviewed, their stock answer is “it is under review.” However, a draft was produced in 1994 but as at October 1996 had not surfaced in Parliament.

Role of Prime Minister Mr Muldoon

From the beginning of the debate Mr Muldoon made his intense opposition to the Bill clear. He also made it very clear he would use his legitimate powers to the full to stop the Bill. I found he used these powers to the hilt. He became more uneasy as support for the Bill gained ground. The vote on the 2nd reading on 25/10/1983 with a majority of 36 meant the vote the 3rd reading would be almost certain to be successful, the Bill would become law. Measures were then taken to avoid any third reading. Then on the 16/12/1983 a last ditch attempt was made by Mr Thomson, Banks, Birch, Bolger, Wellington, and Lee tried to stop the Bill being carried over to next year, and thus destroy it by consigning it to the recess dustbin. That move was defeated 53 to 23. This attempt provoked strong criticism from supporters and opponents of the Bill, in that, the issue must be allowed to come to a full and final vote. The Bill was carried over into 1984, but again measures were taken to ensure that it did not rise on the order paper for a final vote. The delaying tactics employed by the Muldoon Government to frustrate the Bill coming to a definitive vote appear in the Hansard reports and have also been well documented in Iwanek 1991 Thesis. Ch.3. Not only were proponents of the Bill frustrated by these actions but also many in the National caucus. I was also kept well informed of the efforts to frustrate the normal Democratic process, and was also aware of some of the underlying political and personal dimensions in the power play. Note strong criticism of Muldoon’s interference in conscience vote.

Source New Zealand *Auckland Herald*- Editorial 29/9/1982.

The intensity of *Mr Muldoon's* opposition to the Bill raised much speculation that he had a hidden vested interest in opposing the Bill. This he denied, and no one to date has been able to prove otherwise. I know of no such evidence, and accept his denial. However, part of his strong feelings on the issue may well stem from his own background. He also has two adopted grandchildren.

Birth Parents Anonymous

The only pressure group opposed to the legislation was organised by Mrs Quin, of Tapanui, Southland a well known member of the National Party and an associate of the Prime Minister. She claimed to represent over 2,000 birth parents ‘secret mothers’ in society who had contacted her and expressed opposition to the Bill. Newspapers in 1982 carried her story. She made a submission to the 1984 Select Committee but when questioned was unable to provide evidence of her groups membership, or the increased abortions, suicides or blackmail that the Bill would create. It appeared that ‘Birth Parents Anonymous’ in reality had no substance.

1993 Adult Adoption Information Amendment Bill

Grahame Thorne (Nat Onehunga) A Private Members Bill No.277-1 to amend the Adult Adoption Information Act 1985 to allow greater access to information for adult adopted persons, birth parents, and relatives. A relative is defined in the Bill as—grandparent, son, daughter, grandchild, brother, sister, aunt or uncle of the adoptee.

The main provisions were:-

— **Age** Reduced minimum age for adoptee applicants for identifying information from 20 to 18.

— **Adopted persons rights** (i) Every adult adopted person was entitled to their original birth certificate, plus any further information relating to their birth parents, siblings and grandparents held by the Director-General. (ii) Adoptees under 18 may obtain the information with consent of the birthparents named on their original birth entry, also if there are no surviving birthparents, siblings or grandparents, or none found, or any other sufficient reason in the opinion of the Director-General.

— **Birth parent's rights** Every birthparent of an adult adoptee is entitled to (i) Current birth certificate of the adoptee. (ii) Any further information on the adoptee held by the Director-General. The birthfather must be named on the original birth entry or presumed to the satisfaction of the Director-General to be the adoptees father.

— **Relatives' rights** Every relative of an adopted person who has attained the age of 18 is entitled to, (i) The adoptees current birth certificate (ii) Any further information relating the adoptee held by the Director-General.

— **Adoptive parent's rights** They are entitled to receive the adult adoptees original birth certificate and any other information held by the Director-General provided the adoptee consents to it's release.

— **On death of adoptee or birth parent** Director-General given discretion to release information concerning the deceased adoptee or birthparents thereof to relatives.

— **Vetoes** To repeal veto section of 1985 Act, replace with 'contact veto'. A veto should include reasons for placing, that would be passed on to any person encountering the veto. Vetoes to run for 5 years and be renewable.

This is a only a brief summary of the Bill. Mr Thorne, an adoptee had recently experienced reunion, he introduced his Bill to the House with strong emotion. The Bill really required much more work, and was probably too liberal to be accepted by the Parliament of the day.

— **1st Reading** 15/9/1993. The Bill was well received. The speakers, Grahame Thorne, (Onehunga-Nat) Rt Hon Jona-than Hunt, (New Lynn-Lab) Jeff Grant (Awarua-Nat), Sonja Davies (Pencarrow-Lab), Hon Katherine O'Regan (Minister Consumer Affairs-Nat). Grahame Thorne and Jeff Grant spoke as adoptees, Sonja Davies, said she did not know who her father was until she was 45. There was strong support for lowering the adoptee application age from 20 to 18. There were reservations concerning detail, but all speakers agreed that the Bill should be referred to a Select Committee. The debate evidenced a major shift toward political and social acceptance of the

rights of the members of the adoption triangle. There was general acceptance that the Adult Adoption Information Act 1985 was working well, but needed some amendments to widen its scope. The Bill was referred to the Social Services Committee. First Reading *NZPD* Vol.538 15/9/1993 pp18027-18037. Submissions were called and received. The Bill languished with the Social Services Committee for three years, no action was taken. The Bill was never reported back to the House, thus the it never re-appeared on the order paper. Grahame Thorne lost his seat at the November 1993 Election. The Bill was not included in the carryover motion at the dissolution of Parliament in August 1996 and therefore lapsed.

Proposed extensions of rights of access to information

Trapski—K.25. Graham Thome, the then MP for Onehunga, introduced a private member's Bill in September 1993 to amend the Adult Adoption Information Act 1985.

The Bill proposed that an adult adopted person would have a right of access to available information from the Department of Social Welfare as to his or her birth parents, siblings, and grandparents. Younger adoptees, birth parents, relatives of an adult adoptee, and adoptive parents would all have had a right to obtain further information available on the department's files. The Bill would have established a contact veto register and created a new criminal offence, where a contact veto was in force, of attempting to contact the person who had lodged the veto: Adult Adoption Information Amendment Bill 1993.

In its comprehensive review of the Adoption Act, the New Zealand Law Commission gave close attention to access to information issues and made a number of recommendations. It proposed that when an adoption order is made, two birth certificates be issued. One would be a short form certificate with the post-adoption names of the child and the names of the adoptive parents. A second long form certificate would contain the child's original names, the date of the adoption order, and the names and details of the birth parents. The long form certificate would be available only to the adoptee, the adoptive parents, and the birth parents. The adoptee would never be required to produce the long form certificate. If the adoptee dies, a person with a genuine interest could apply to the Court for access to the long form certificate: *Adoption and Its Alternatives: A Different Approach and a New Framework*, NZLC R65, September 2000, paras 477 to 482.

The Commission further proposed that after a 3-year period no new vetoes could be placed but existing vetoes could be renewed: paras 483 to 485. Further recommendations were that compulsory counselling requirements in the Adult Adoption Information Act be repealed (para 488) and that Court and departmental adoption records be open to inspection by adoptees of any age, birth parents, and adoptive parents as of right: paras 489 to 492. Others could apply to the Court for access if the adoptee has died or the applicant can show a genuine and proper interest in obtaining the information: paras 489 to 492.

Source *Trapski's Family Law* Vol 5. 'Adoption' p420 K.25 &07 (21/11/03) Brooker's

Future changes to the Adoption Information Act

Many adoptees, birth parents and social workers would like to see amendments to the Adult Adoption Information Act 1985. The main concerns are sibling information and contact, vetoes, and simplification of provisions. However there is reluctance to raise these issues with the present 1996 Government. The political maneuvering in the handling of the Adoption Information Bills has left a deep and lasting distrust while strong opponents of Adult Adoption Information Bill remain in power.

Free conscience votes

“Free or conscience votes are those votes in the House where members of parliament can choose according to their own conscience. They may vote in any way they please on a given issue. The decision on whether to give members a free vote on an issue is usually decided by each party for its own members. There are no formal parliamentary rules bearing on the matter at all. Matters which have been treated as conscience issues include: the abolition of capital punishment, gambling, compulsory use of seatbelts, abortion, homosexual law reform and liquor laws. On a free vote the whips do not operate, the members are left to vote or not to vote as they choose. Often matters relating to conscience issues are left to a private member to introduce rather than the Government, but it is possible the Government may bring forward its own legislation on a particular subject and then leave the decision on how to vote to its members. Conscience votes are often used by parties as a safety valve to handle those issues which cannot appropriately be treated as party matters.

Source D McGee, ‘Parliamentary Practice in New Zealand 1985’ pp62-63

Private Members’ Bills

Iwanek— “A private members’ bill may be used as a vehicle for individual MPs to introduce new ideas... Private members’ bills with a free vote have traditionally been used as a means of dealing with controversial issues without straining party cohesion. When a Bill is not a matter of party policy and the whips are not operating, personal biases and characteristics, particularly those of a moral or religious nature, come to the fore and can create much greater tension than a vote on party lines. Some of the irritability and ill feeling between members tends to show in the debating chamber. Free votes can be a particular problem for the governing party as they are the cause of more division than usual between cabinet ministers, and between cabinet ministers and back benchers. This was particularly evident in the case of the Hospital Amendment Bill (1975), where the majority of Labour MPs voted for the Bill against the advice of the Ministers who were best informed about the effects of the Bill, which later proved to be ineffective in what it set out to do.

Source R.Stone, ‘Group Struggle in a Value Field: The Comparative Performance of New Zealand Pressure Groups on the Question of Adoption 1970-1975. *Political Science* Vol.29 No.2 December 1977 pp139-153

Policy making in New Zealand

Iwanek re Cleveland— “Cleveland suggests that in a democracy like New Zealand, government is largely carried on by means of the persuasion and manipulation of public opinion, or whatever its convenient substitutes might be. He suggests that rather than policies being developed on the basis of a rational decision or incremental decision, the following is true:

“Central to the successful management of conflict is the democratic proposition that out of the clash of opinions over some problem or issue, the most acceptable course of action will present itself as the end product of a lengthy and complicated sequence of grumbling, complaint, interest seeking, exploration of possible courses of action, clarification of issues, criticism, debate, public opinion sounding, expert consultation, reaching for consensus, formulation of policy, and final decision making”.

Cleveland suggests that in New Zealand experience points out that almost anyone can engage in pressure group activity in the political system, using no more than his personal resources of talent, energy and time.

L.Cleveland, ‘Anatomy of Influence: Pressure Groups in New Zealand’ *Political Science* 23.1/6 1971.

Much more detail of the political, departmental and pressure groups involved in the Adoption law change debate can be found in

Source *Iwanek* 1991 Thesis Ch.3.

Political pressures on conscience vote

Editorial New Zealand Herald— The comments made by *Mr Muldoon* and *Mr McLay* on their views about the Adult Adoption Information Bill and expressing the feeling that other National MPs would oppose it, were severely criticized in a number of editorials in national papers—

“In stating that the Cabinet discussed the Adult Adoption Information Bill and that he opposes it, the Prime Minister appears to assume that it is the responsibility of the executive to give a lead on measures that come before Parliament as issues of conscience. What *Mr Muldoon* seems to overlook is that in a free vote, his position and the views of his Cabinet colleagues should carry no more weight than those of back benchers from either side of the House of Representatives. Private members are not subject to the discipline of the Party Whips when matters of conscience are declined. When *Mr Hunt’s* Bill on adoption comes before Parliament, the Prime Minister will vote as the member for Tamaki. If other members wish to take a lead from him, naturally they are free to do so, but they should not feel any obligation to adopt that course...”

Source *Editorial New Zealand Herald* Auckland Wednesday 29 September 1982.

Departmental responses to Adult Adoption Information Bill**Justice Department**

Their Justice research section felt sufficiently strongly about the topic to prepare a submission promoting views at odds with those of its own Minister. This may well be against protocol and showed that differences existed be-

tween officials and the Minister. It also demonstrated that Ministers may ignore advice given by departmental representatives if it interferes with politics or a personal view. As this was a private members' bill, however, departmental officers had a right to make representations on their own behalf as their Minister would be voting on an issue of conscience and not Government official policy. Nevertheless they were challenged by the Minister, *Mr McLay*, at the time of their presentation, even though technically he had no right to do so. [I was present at the Select Committee, *Mr McLay* was angry with the Justice Department official and demanded that the Press and observers hand back all copies of the submission and leave the room immediately. KCG]

Department of Social Welfare

Their response to the Adult Adoption Information Bills was different from that of the Department of Justice. In its submission to the Statutes Revision Committee the Department expressed support for the principles of the Bill, but opposed it on the grounds that adult adoption information reform should be part of a total review of the Adoption Act. In that regard the Department seemed to be in total agreement with the Ministers of Social Welfare during this period.

Adult Adoption Information Act 1985

Statute No.127 13/9/1985.

An Act to provide for greater access to information relating to adoptions and to the parties to adoptions by adult adopted persons and their birth parents, and for other related matters. Be it enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

(1) This Act may be cited as the Adult Adoption Information Act 1985. (2) Sections 4 to 6, 8, and 9 of this Act shall come into force on the 1st day of September 1986. (3) Subject to subsection (2) of this section, this Act shall come into force on the 1st day of March 1986.

2 Interpretation

In this Act, unless the context otherwise requires,-

Adopted person means a person in respect of whom an adoption order has at any time been made; and “adopted” has a corresponding meaning:

Adoption order means an adoption order made under the Adoption Act 1955 or any corresponding former enactment; and includes an instrument details of which have been registered under section 21A of the Births and Deaths Registration Act 1951:

Adoptive parent, in relation to any other person, means a person who has at any time, either alone or pursuant to an application made jointly with a spouse, adopted that other person under an adoption order; but no person shall be an adoptive parent by reason only of- (a) Having consented to an adoption by a spouse; or (b) Having become the spouse of an adoptive parent after the adoption concerned:

Adult as a noun means a person who has attained the age of 20 years; and as an adjective it has a corresponding meaning:

Approved organisation means an organisation for the time being approved under section 12(1) of this Act:

Approved person means a person for the time being approved under section 12(1) of this Act; and includes a person whose name is for the time being notified under section 12(2) of this Act:

Birth parent, in relation to any other person, means a person who is that other person’s biological mother or father:

Department means the Department of Social Welfare:

Director-General means the Director-General of Social Welfare:

Identifying information, in relation to any person, means the person’s name or address; and includes any information that is likely to enable any other person to ascertain that person’s name or address:

Original birth certificate, in relation to any person means a certificate under section 38 of the Births and Deaths Registration Act 1951 of the original entry of that person’s birth, endorsed on its face with the words ‘ISSUED FOR THE

PURPOSES OF THE ADULT ADOPTION INFORMATION ACT 1985’; and includes any such certificate from which there have been omitted, in accordance with this Act, any details relating to either or both of that person’s birth parents:

[1995 Amendment

Original birth certificate definition repealed and substituted by following definition: *Original birth certificate* in relation to any person, means a birth certificate (within the meaning of the Births, Deaths, and Marriages Registration Act 1955) containing information recorded under that Act or a former Act (within the meaning of that Act) relating to the person’s birth, bearing on its face the words ‘ISSUED FOR THE PURPOSES OF THE ADULT ADOPTION INFORMATION ACT 1985’; and includes any such certificate from which there have been omitted, in accordance with this Act, any details relating to either or both of the person’s birth parents:” Births, Deaths, and Marriages Registration Act 1995 No.16 s95. First Schedule 31/3/1995 In force 1/9/1995] *Registrar-General* means the Registrar-General appointed under the Births and Deaths Registration Act 1951 *Social Worker* means a social worker appointed or deemed to be appointed in accordance with section 8 of the Department of Social Welfare Act 1971; and, in relation to any matter undertaken by one social worker, includes any other social worker dealing with that matter.

[1990 Amendment.

Social Worker “Section 2 of the Adult Adoption Information Act 1985 is hereby amended by omitting from the definition of the term “social worker” the words “appointed or deemed to be appointed in accordance with section 8 of the Department of Social Welfare Act 1971”, and substituting the words “employed as such under Part V of the State Sector Act 1988 in the Department of Social Welfare”. Social Welfare (Transitional Provisions) Act 1990 No.26. s36(2) In force 1/4/1990]

3 Birth parent may restrict access to identifying information

(1) Either birth parent of a person adopted before the 1st day of March 1986 may at any time request the Registrar-General to have the original entry of the birth of that person endorsed to the effect that that person is not to have access to identifying information relating to the person making the request.

(2) The following provisions shall apply to every request under subsection (1) of this section:

(a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations.

(b) That person shall indicate to the Registrar-General whether or not that person desires counselling:

(c) If that person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:

(d) If that person (i) Indicates that that person does not desire counselling; or (ii) Under paragraph (c) of this sub-

section requests the Registrar-General to proceed with the original request- the Registrar-General shall cause the original entry of the birth of the adopted person concerned to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed.

(3) The fact that there is upon the original entry of the birth of any person one unexpired endorsement under subsection (2) of this section relating to any person shall not prevent a further endorsement under that subsection relating to that person.

(4) Subject to subsection (5) of this section, every endorsement under subsection (2) of this section shall continue in force until the expiration of 10 years from the date of its making, and shall then expire.

(5) A birth parent of an adopted person may at any time request the Registrar-General to have removed from the original entry of that person's birth all endorsements under subsection (2) of this section relating to that parent; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire.

4 Adult adopted person may apply for original birth certificate

(1) Any adult may make a written application to the Registrar-General for an original birth certificate in relation to the applicant; and in that case the following provisions shall apply:

(a) Where it does not appear from the records of the Registrar-General that the applicant is adopted, the Registrar-General shall so notify the applicant in writing:

(b) Subject to subsection (2) of this section, where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of March 1986, and that- (i) Details relating to only one of the applicant's birth parents appear in the original entry of the applicant's birth and there is on that entry any unexpired endorsement under section 3(2) of this Act relating to that parent; or (ii) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, and there are on that entry unexpired endorsements under section 3 (2) of this Act relating to each of those parents,- section 5(1) of this Act shall apply to the applicant:

(c) Where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of March 1986, and that- (i) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, but there are on that entry unexpired endorsements under section 3(2) of this Act relating to only one of them; or (ii) There are no unexpired endorsements under section 3(2) of this Act on that entry,- section 5(2) of this Act shall apply to the applicant:

(d) Where it appears from the records of the Registrar-General that the applicant was adopted after the 28th day of February 1986, section 6 of this Act shall apply to the applicant.

(2) Where- (a) There is on the original entry of the birth of

an adopted person any unexpired endorsement under section 3(2) of this Act relating to a birth parent of that person; and (b) The Registrar-General is satisfied that that person is dead- paragraphs (b) and (c) of subsection (1) of this section shall apply to any application under that subsection as if that endorsement had expired.

5 Certificates for persons adopted before commencement of Act (1)

The Registrar-General shall inform every applicant to whom this subsection is applied by section 4(1)(b) of this Act of the existence, effect, and date of expiry of the endorsements concerned, and, notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, shall send the applicant an original birth certificate from which all details relating to the applicant's birth parents have been omitted.

[1995 Amendment

"By omitting from section 5(1) the words 'all details relating to the applicant's birth parents have been omitted', and substituting the words 'there have been removed all details relating to the applicant's birth parents, and every reference to any surname registered for the applicant'" Births, Deaths, and Marriages Registration Act 1995 s96. 31/3/1995 In force 1/9/1995]

(2) Notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, but subject to subsection (3) of this section, the following provisions shall apply to every application under section 4(1) of this Act made by an applicant to whom this subsection is applied by section 4(1)(c) of this Act:

(a) The Registrar-General shall notify the applicant in writing,- (i) If the applicant lives within New Zealand, of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and (ii) That except where the applicant lives outside New Zealand, an original birth certificate will not be given to the applicant until the applicant has received counselling:

(b) If the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to- (i) The appropriate office of the Department; or (ii) The approved person or organisation specified by the applicant as the case requires:

(c) The person or organisation to whom or to which an original birth certificate is sent under paragraph (b) of this subsection shall release to the applicant after the applicant has received counselling:

(d) If it appears to the Registrar-General that the applicant is permanently resident outside New Zealand, the Registrar-General shall send the applicant an original birth certificate and the address of the Director-General.

(3) There shall be omitted from every original birth certificate sent under subsection (2) of this section all details relating to any birth parent of the applicant concerned if-

(a) There is on the original entry of the applicant's birth and unexpired endorsement under section 3(2) of this Act

relating to that parent; and (b) The Registrar-General is not satisfied that that parent is dead.

[1995 ADDITION “(4) There shall be omitted from every original birth certificate sent under subsection (2) of this section every reference to any surname registered for the applicant if— (

a) There is on the original entry of the applicant’s birth an unexpired endorsement under section 3(2) of this Act relating to a parent who has that surname; and

(b) The Registrar-General is not satisfied that that parent is dead.” Inserted by Births, Deaths, and Marriages Registration Act 1995 s96 31/3/1995 In force 1/9/1995]

6 Certificates for persons adopted after commencement of Act Notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, the following provisions shall apply to every application under section 4(1) of this Act by an applicant to whom this section is applied by section 4(1)(d) of this Act:

(a) The Registrar-General shall notify the applicant in writing,- (i) Of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and (ii) That within 28 days the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, and original birth certificate will be sent to the appropriate office of the Department or that person or organisation; and (iii) That if the applicant does not desire counselling, or fails within 28 days to inform the Registrar-General that the applicant does require counselling, and original birth certificate will thereafter be held on the applicants’s behalf:

(b) If the applicant- (i) Notifies the Registrar-General in writing that the applicant does not desire counselling; or (ii) Has not, within 28 days following the dispatch to the applicant of the notice under paragraph (a) of this section, notified the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation,- the Registrar-General shall forthwith notify the applicant in writing that an original birth certificate is held on the applicant’s behalf:

(c) If the applicant is notified under paragraph (b) of this section that and original birth certificate is held on the applicant’s behalf, and thereafter notifies the Registrar-General in writing that the applicant wishes it sent to the applicant, the Registrar-General shall send it to the applicant:

(d) If, within the 29 days following the dispatch to the applicant of the notice under paragraph (a) of this section the applicant has notified the Registrar-General that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to- (i) The appropriate office of the Department; or (ii) The approved person or organisation specified by the applicant,- as the case requires; and the applicant shall be entitled to uplift it at any reasonable time.

7 Adopted person may register desire not to have contact with birth parents

(1) An adopted person who has attained the age of 19 years may at any time request the Registrar-General to have the original entry of that person’s birth endorsed to the effect that that person does not desire any contact with a specified birth parent, or with either of that person’s birth parents.

(2) The following provisions shall apply to every request under subsection (1) of this section:

(a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations.

(b) That person shall indicate to the Registrar-General whether or not that person desires counselling:

(c) If the person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:

(d) If that person-

(i) Indicates that that person does not desire counselling; or (ii) Under paragraph (c) of this subsection requests the Registrar-General to proceed with the original request- the Registrar-General shall case the original entry of that person’s birth to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed.

(3) The fact that there is upon the original entry of a person’s birth one unexpired endorsement under subsection (2) of this section relating to a parent shall not prevent a further endorsement under that subsection relating to that parent.

(4) Subject to subsection (5) of this section, every endorsement under subsection (2) of this section shall continue in force until the expiration of 10 years from the date of its making, and shall then expire.

(5) Any person may at any time request the Registrar-General to have removed the original entry of that person’s birth any endorsements under subsection (2) of this section; and in that case the Registrar-General shall cause that entry to be noted accordingly, and those endorsements shall then expire.

8 Access by birth parents to identifying information-

(1) Any person may make a written application to the Director-General for identifying information relating to an adult adopted person whose birth parent the applicant is

(2) Where the Director-General is satisfied that an applicant under subsection (1) of this section is a birth parent of the adult adopted person to whom the information sought relates, the following provisions shall apply:

(a) Where the Director-General is satisfied that the adopted person concerned is dead, the Director-General shall so inform the applicant: and the Director-General may disclose to the applicant such information as the Director-General thinks fit relating to that person, that person’s circumstances at the time of that person’s death, and the

circumstances of that person's death:

(b) Where the Director-General is not satisfied that the adopted person concerned is dead, the Director-General shall enquire of the Registrar-General if there is on the original entry of the birth of that person any unexpired endorsement under section 7(2) of this Act relating to the applicant; and in that case the Registrar-General shall inform the Director-General whether or not there is such an entry and, if so, when it (or if more than one the most recent of them) will expire:

(c) Where the Registrar-General informs the Director-General that there is such an endorsement on that entry the Director-General shall give the applicant the information given to the Director-General by the Registrar-General under paragraph (b) of this subsection, and shall inform the applicant of the effect of the endorsement concerned:

(d) Where the Registrar-General informs the Director-General that there is no such endorsement on that entry-

(i) If the Director-General does not know the name and address of the adopted person concerned but, in the Director-General's opinion, it is probable that a social worker can ascertain identifying information relating to that person without undue effort, the Director-General shall cause a social worker to attempt to do so:

(ii) If the Director-General knows the name and address of the adopted person concerned and, in the Director-General's opinion, it would be possible for a social worker to contact that person without undue effort, the Director-General shall cause a social worker to attempt to do so and to ascertain whether or not that person is willing to have that person's name and address communicated to the applicant:

(iii) The name and address of the adopted person concerned shall not be communicated to the applicant unless that person has indicated to that social worker that that person is willing for them so to be communicated:

(iv) If the adopted person concerned has indicated to that social worker that the person is willing to have that person's name and address communicated to the applicant, the Director-General shall communicate them to the applicant and inform both the adopted person and the applicant of the effect of section 10 of this Act.

9 Access by adult adopted person to identifying information

(1) Any adult adopted person may make a written application to the Director-General for identifying information relating to either or both of that person's birth parents.

(2) Every application under subsection (1) of this section shall be accompanied by an original birth certificate relating to the applicant.

(3) The Director-General shall disclose to an applicant under subsection (1) of this section all available identifying information relating to any birth parent concerned, and inform that person of the effect of section 10 of this Act, if, and only if,- (a) Details of that parent appear in the original birth certificate accompanying the application; or (b) The Director-General is satisfied that that parent is dead.

(4) Where- (a) The Director-General is required by subsection (3) of this section to disclose to an applicant under subsection (1) of this section identifying information relating to a birth parent; and (b) The Director-General does not know the name and address of that parent; and (c) In the opinion of the Director-General, it is probable that a social worker can ascertain identifying information relating to that parent without undue effort,- the Director-General shall cause a social worker to attempt to do so; and subsection (3) of this section shall apply to all identifying information obtained as a result.

10 Departmental assistance in approaching parent or child

(1) An adult adopted person who has ascertained the name and address of a birth parent may request any social worker to approach that parent on that person's behalf.

(2) Any person who has ascertained the name and address of an adult adopted person whose birth parent that person is may request any social worker to approach that adopted person on that person's behalf.

(3) Any adoptive parent of an adopted person who has ascertained the name and address of a birth parent of that adopted person may request any social worker to approach that parent on that adoptive parent's behalf.

(4) A social worker to whom a request is made under this section may decline that request.

(5) Where a social worker accepts a request made under this section, that social worker shall approach the person concerned and ask if that person is willing to meet the person who made the request, and if so under what circumstances; and- (a) If the person concerned is unwilling to meet the person who made the request, the social worker shall so inform the person who made the request; and (b) If the person concerned is willing to meet the person who made the request, the social worker shall inform the person who made the request of the circumstances under which the person concerned is will to do so.

(6) Where a social worker accepts a request under this section, and approaches any person,- (a) If the person who made that request is an adult adopted person, or an adoptive parent of an adult adopted person, that social worker shall inform the person approached of the rights (if any) that that person has under section 3 of this Act in relation to any other child of that person who may have been adopted: (b) If the person who made that request is a birth parent, that social worker shall inform the person approached of the rights that that person has under section 7 of this Act in relation to the other birth parent of that person.

11 Access to information on medical grounds (1)

For the purpose of this section, -

Doctor means a registered medical practitioner:

Medical includes psychiatric:

Relative, in relation to any other person, means a person who is by blood the grandparent, parent, child, grandchild,

or (whether of the whole or half blood) brother, sister, or cousin, of that other person:

Unknown relative, in relation to any person, means a relative whose name and address are unknown to that person by virtue of the confidentiality attendant upon the adoption of that person, that relative, or some other person who is a relative of them both.

(2) A doctor who is- (a) Responsible for the medical treatment and advice of any patient; and (b) Satisfied that it is necessary or desirable, for the purpose of providing treatment of or advice relating to any medical condition of that patient, or for the purpose of providing genetic counselling for or in relation to that patient, to obtain information about the medical or genetic history of an unknown relative, may give the Director-General notice in writing to that effect, specifying the information concerned.

(3) Where, in the opinion of any doctor, any information obtained as a result of that doctor's dealings with any patient is likely to be relevant to provision of treatment of or advice relating to any medical condition of potential medical condition of any unknown relative, or the provision of genetic counselling for or in relation to any unknown relative, that doctor may with the consent of that patient (or, where that patient is not an adult, of that patient's guardian) give the Director-General notice in writing to that effect, together with a separate statement of that information.

(4) A social worker may produce a notice under subsection (2) or subsection (3) of this section- (a) To the Registrar-General; and in that case, notwithstanding section 21(7) of the Births and Deaths Registration Act 1951, the social worker shall be entitled to obtain an original birth certificate of the adopted person concerned: (b) To the Registrar of the Court where the Court file relating to the adoption concerned is held; and in that case the social worker shall be entitled to search, inspect, and take a copy of any document on the file concerned.

[1995 Amendment

By omitting from section 11(4) the words 'section 21(7) of the Births and Deaths Registration Act 1951', and substituting the words 'section 63 of the Births, Deaths, and Marriages Registration Act 1995''. Births, Deaths, and Marriages Registration Act 1995 s96 First Schedule. 31/3/1995 In force 1/9/1995]

(5) A social worker may disclose to the doctor concerned (in the case of a notice under subsection (2) of this section) or the doctor of any unknown relative (in the case of a notice under subsection (3) of this section) any information whatsoever (not being identifying information) relevant to the medical or genetic history of the patient or relative concerned.

(6) No doctor shall disclose to any person any identifying information obtained by the use of information obtained under this section.

Approved Persons and Organisations

12 Minister may approve persons and organisations for purpose of Act

(1) The minister of Social Welfare may from time to time, by notice in the Gazette, approve any person or organisation (whether incorporated or unincorporated) to undertake counselling under the Act.

(2) Any approved organisation may from time to time notify the Director-General of the name of any member or employee authorised to act on behalf of that organisation; and may at any time notify the Director-General that the authority of that member or employee has been withdrawn.

1991 Amendment repealed s12(2) substituted new 12A per Adult Adoption Information Amendment Act 1991 s2(1) printed at end this Act.

13 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for either of both of the following purposes: (a) Prescribing fees payable under this Act: (b) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and its due administration.

* (2) Where the Registrar-General is empowered by this Act to do any act for which a fee is payable, the Registrar-General may refuse to do the act until the fee is paid.

* (3) Notwithstanding the provisions of any regulation under this Act, the Registrar-General may dispense with the payment of any fee payable under this Act.*

[1991 Amendment. S.13(2) and (3) repealed by Adult Adoption Information Amendment Act 1991 S2.(2) of 1991 No.94 see as printed at end of this Act]

14 Act not to effect disclosure of non-identifying information

Nothing in this Act shall effect the disclosure to any person of any information relating to any other person that is not, in relation to that other person, identifying information.

15 Amendment to Adoption Act 1955

The Adoption Act 1955 is hereby amended by repealing section 23, and substituting the following section:

"23 Inspection of adoption records-

(1) An adoption order shall be open to inspection by any person who requires to inspect it for some purpose in connection with the administration of an estate or trust of which that person is executor, administrator, or trustee.

(2) Adoption records shall be open to inspection by any Registrar of Marriages or marriage celebrant under the Marriage Act 1955 for the purposes of investigating forbidden degrees of relationship under the Act.

(3) Adoption records shall not be available for production or open to inspection except- (a) To the extent authorised by subsection (1) or subsection (2) of this section or by section 11(4)(b) of the Adult Adoption Information Act 1985; or (b) On the order of a Family Court, a District Court, or the High Court, made- (i) For the purposes of a

prosecution for making a false statement; or (ii) In the event of any question as to the validity or effect of any interim order or adoption order; or (iii) On any other special ground. Enacted 13/9/1985. s4-6,8, and 9 into force 1/9/1986. Remainder of Act in force 1/3/1986.

Adult Adoption Information Amendment Act 1991

Statute 8/8/1991: An Act to amend the Adult Adoption Information Act 1895. Be it enacted by the Parliament of New Zealand as follows:

1 Short Title— This Act may be cited as the Adult Adoption Information Amendment Act 1991, and shall be read together with and deemed part of the Adult Adoption Information Act 1985 (hereinafter referred to as the principal Act).

2 Fees— (1) The principal Act is hereby amended by inserting, before section 13, the following section:

12A.[1] Regulations made under section 13(1)(a) of this Act may prescribe fees for—(a) The making of any application or request under this Act to the Registrar-General, the Director-General, or a social worker; or (b) The approval of any person or organisation under section 12 of this Act; or (c) The doing of any other act under this Act by the Registrar-General, the Director-General, or a social worker. [2] Notwithstanding anything in the Official Information Act 1982, the Registrar-General, the Director-General, or a social worker (as the case may be) may refuse to— (a) Accept any application or request under this Act; or (b) Approve any person or organisation under section 12 of this Act; or (c) Do any other act under this Act,—for which or for the making or doing of which a fee is prescribed (whether under this Act or by or under any other enactment) unless the fee has been paid. [3] Notwithstanding subsection (2) of this section,— (a) The Registrar-General may— (i) Dispense with the payment of all or any part of any fee payable to the Registrar-General under this Act; or (ii) Refund all or any part of any fee paid to the Registrar-General under this Act; and (b) The Director-General may—(i) Dispense with the payment of all or any part of any fee payable to the Director-General under this Act; or (ii) Refund all or any part of any fee paid to the Director-General under this Act.

(2) Section 13 of the principal Act is hereby consequentially amended by repealing subsections (2) and (3).

(3) The Adult Adoption Information (Fees) Regulations 1989 are hereby revoked.

(4) Until for the first time after the commencement of this Act regulations made under this Act prescribing fees come into force, there shall be deemed to be prescribed the following fees (inclusive of goods and services tax under the Goods and Services Tax Act 1985): (a) For every original birth certificate from an entry in the records kept in the office of the Registrar-General (including the search in the year concerned)- \$15: (b) For every other search of a register book or index or records kept in the office of the Registrar-General, in respect of each name or entry searched, in respect of each year- \$3 (c) For processing a written application to the Director-General by the birth parent of

an adult adopted person for identifying information relating to the person- \$140.60 (d) For processing a written application to the Director-General by an adult adopted person for identifying information relating to one or both of the person's birth parents- \$87.15: (e) For counselling an adult adopted person about the endorsement of the original entry of the person's birth to the effect that the person is not to have access to identifying information relating to a birth parent- \$35.40: (f) For counselling a birth parent of an adult adopted person about the endorsement of the original entry of the person's birth to the effect that the person does not desire any contact with the parent (or with either birth parent)- \$35.40: (g) For approaching- (i) A birth parent of an adult adopted person on the person's behalf; or (ii) An adult adopted person on behalf of a birth parent; or (iii) A birth parent of an adult adopted person on behalf of an adoptive parent of the person- \$92.25. Enacted 8/8/1991.

Rules Adult Adoption Information Act 1985

SR1986/207 Adult Adoption Information Act Fees

1 Title and commencement: (1) These regulations may be cited as the Adult Adoption Information (Fees) Regulations 1986. (2) These regulations shall come into force on the 1st day of September 1986.

2 Fees: There shall be paid to the Registrar-General, for each matter specified in the Schedule to these regulations, the fee specified for it in the Schedule. SCHEDULE: For every original birth certificate from an entry in the records kept in the office of the Registrar-General (including the search in the year concerned- \$10. For any other search of a register book or index or records kept in the office of the Registrar-General, in respect of each name or entry searched, in respect of each year- \$2. Dated 25/8/1986. Gaz 28/8/1986 In Force 1/9/1986. Revoked by SR1987/150 1/7/1987

SR1987/150 Adult Adoption Information Act Fees

1 Title and commencement: (1) These regulations may be cited as the Adult Adoption Information (Fees) Regulations 1987. (2) These regulations shall come into force on the 1st day of July 1987.

2 Fees: There shall be paid to the Registrar-General, for each matter specified in the Schedule to these regulations, the fee specified for it in the Schedule.

3 Amount of goods and services tax included: The fees prescribed by these regulations are inclusive of goods and services tax under the Goods and Services Tax Act 1985.

4 Revocation: The Adult Adoption Information (Fees) Regulations 1986 are hereby revoked. SCHEDULE: For every original birth certificate from an entry in the records kept in the office of the Registrar-General (including the search in the year concerned- \$12. For any other search of a register book or index or records kept in the office of the Registrar-General, in respect of each name or entry searched, in respect of each year- \$3. [Note: These regulations, which come into force on 1 July 1987 increase the fees payable under the Adult Adoption Information Act 1985, and make clear that the fees are inclusive of GST.] Date 8/6/1987 Gaz 11/6/1987. In Force 1/7/1987 Revoked SR1988/75 23/5/1988

SR1988/75 Adult Adoption Information Act Fees

1 Title and commencement: (1) These regulations may be cited as the Adult Adoption Information (Fees) Regulations 1988. (2) These regulations shall come into force on the 23rd day of May 1988.

2 Fees: There shall be paid to the Registrar-General, for each matter specified in the Schedule to these regulations, the fee specified for it in the Schedule.

3 Amount of goods and services tax included: The fees prescribed by these regulations are inclusive of goods and services tax under the Goods and Services Tax Act 1985

4 Revocation: The Adult Adoption Information (Fees) Regulations 1987 are hereby revoked. **SCHEDULE:** For every original birth certificate from an entry in the records kept in the office of the Registrar-General (including the search in the year concerned- \$14. For any other search of a register book or index or records kept in the office of the Registrar-General, in respect of each name or entry searched, in respect of each year- \$3. Dated 18/4/1988 Gaz 21/4/1988 In Force 23/5/1988. Revoked by SR 1989/318 1/12/1989

SR1989/318 Adult Adoption Information Act fees**1 Title and commencement:**

(1) These regulations may be cited as the Adult Adoption Information (Fees) Regulations 1989. (2) These regulations shall come into force on the 1st day of December 1989.

2 Fees: There shall be paid to the Registrar-General, for each matter specified in the Schedule to these regulations, the fee specified for it in the Schedule.

3 Amount of goods and services tax included: The fees prescribed by these regulations are inclusive of goods and services tax under the Goods and Services Tax Act 1985. **SCHEDULE:** For every original birth certificate from an entry in the records kept in the office of the Registrar-General (including the search in the year concerned- \$15. For any other search of a register book or index or records kept in the office of the Registrar-General, in respect of each name or entry searched, in respect of each year- \$3. Dated 30/10/1989 Gaz 2/11/1989 In Force 1/12/1989. Revoked by SR1991/96

SR1991/196 Adult Adoption Information Act fees

1 Title and Commencement: (1) These regulations may be cited as the Adult Adoption Information (Fees) Regulations 1991. (2) These regulations shall come into force on the 28th day after the date of their publication in the Gazette.

2 Fees: (1) There shall be paid to the Registrar-General, for each matter specified in Part. 1 of the Schedule to these regulations, the fee specified for it in the Part.

(2) There shall be paid to the Director-General, for each matter specified in Part 11 of the Schedule these regulations, the fee specified for it in the Part.

3 Amount of goods and services tax included: The fees prescribed by these regulations are inclusive of goods and services tax under the Goods and Services Tax Act 1985. **SCHEDULE Reg.2 Fees (Including GST) Part.1. Fees payable to Registrar-General.** For every original birth certificate (including the search in the year concerned)- \$15. For every other search of information under the control of the

Registrar-General, in respect of each name or entry searched in respect of each year- \$3. **Part.2. Fees payable to the Director-General.** For processing a written application to the Director-General by the birth parent of an adult adopted person for identifying information relating to the person- \$140. For processing a written application to the Director-General by an adult adopted person for identifying information relating to one or both of the person's birth parents- \$87.15. For counselling an adult adopted person about the endorsement of the original entry of the person's birth to the effect that the person is not to have access to identifying information relating to a birth parent- \$35.40. For counselling a birth parent of an adult adopted person about the endorsement of the original entry of the person's birth to the effect that the person does not desire any contact with the parent (or with either birth parent)- \$35.40. For approaching- (i) A birth parent of an adult adopted person on the person's behalf; or (iii) An adult adopted person on behalf of a birth parent; or (iii) A birth parent of an adult adopted person on behalf of an adoptive parent of the person- \$92.25.

Note: These regulations, which come into force 28 days after notification in the Gazette, prescribe certain fees payable under the Adult Adoption Information Act 1985. The fees, payable to the Registrar-General and the Director-General of Social Welfare, are the same as those deemed by section 2(4) of the Adult Adoption Information Amendment Act 1991 to be prescribed Date 2/9/1991 Gaz 5/9/1991 In Force 3/10/1991.

Imposition of high adoption charges

Bradley— "On Budget night 1991 as part of the user pays line of thinking the Government imposed adoption services charges in respect to both the Adoptions Act 1955 and the Adult Adoption Information Act 1985, effective from August 1991. A fee of \$35.40 was charged for an initial adoptee face to face interview and a further \$87.15 fee for identifying information. A birth parent applying for information was subject to the same initial face to face interview fee \$35.40 and subsequent charge of \$140.60 for application for information. A further service of veto counselling was offered to the birth parent at a fee of an additional \$35.40. Prospective adoptive applicants could expect to pay an initial interview fee of \$42.15, followed by charges of \$53.40 for training and education, \$53.40 with the application, \$464.05 for the assessment and \$78.75 for the final preparation; being a total of \$691.75. The implications for a move such as this on the part of government invites an array of criticism- from the point of view that the state could be condemned for its actions, morally, from a discriminatory point of view, and from the point of view that the information it holds belongs to the people as of right. If it feels that it cannot maintain its keeper of the information role then the alternative might be to give it up. It is not surprising the charges were dropped two years later on the July budget night 1993."

Source John Bradley 'We are Still Here' in 'book Adoption and Healing' 1997 pp14-15. [The move for high adoption fees was strongly opposed by the Department Social Welfare but insisted upon by Treasury and Government. KCG]

Overview 1996 Perspective

Rockel-Ryburn—“The Adult Adoption Information Act became law in 1985 because lawmakers and the public had learned several important things from those involved in adoptions. They had learned that a wish to know about origins was no different from the strong interest in family background that helps many of us understand what makes us the people we are. They had realised that a normal reaction for a parent parted from a child is to want to know what life had been like for the child they placed for adoption. This law change recognised the feelings of birth parents and adopted people about their separation from one another, and offered them the means of meeting needs that closed adoptions had denied.” 1988 p55

Kennard—“In 1985 the Adult Adoption Information Act was passed in New Zealand after eight years of controversy. It allowed adult adopted people to obtain identifying information which should make it possible for them to trace their birth families. It also provided for birth parents to contact their adult adopted ‘children’ if they agree to being contacted. The 1985 Act came about because of the expressed needs of consumer groups, who brought to public notice the effects closed adoption records had on both adopted people and birth parents. It also fitted with the direction adoption practice was taking after the ‘clean break’ theory had been abandoned.” 1991 p20

Trapski’s—“The Adult Adoption Information Act was designed to achieve a balance between the rights of all three members of the adoption triangle. This is an area fraught with emotion and there are moving accounts of reunions between birth parents and their adopted children. It is also true that some birth parents feel apprehensive at the thought of the child they gave in adoption decades before arriving unexpectedly on their doorstep. They may argue that they agreed to adoption with the understanding that there would be a final severance of contact with the child, and that a later change in the law allowing adopted persons to trace and make contact with their birth parents amounts to a breach of faith. There has never been, and never could be, any legal guarantee of secrecy to birth parents, but the veto provisions in the 1985 Act are a recognition of these concerns. Information about the new provisions and the right to impose a veto was disseminated widely through a publicity campaign and explanatory leaflets.” *Trapski’s Family Law Vol.5 Brooker’s K1* 1995

DSW 1995 perspective**“Legislative Background**

The principal purpose of New Zealand’s first adoption legislation, the Adoption of Children Act 1881, was to give some security to the adopted child and the adoptive parents. Prior to this Act, adoption in New Zealand, as in other Commonwealth countries, had been a rather informal process, akin to fostering. Nothing in the 1881 Act, or in the Infant’s Act 1908, limited access to birth records... The Adoption Act 1955, for the first time, allowed a birth parent to give consent to an adoption without knowing the

identity of the adoptive parents. The regulations under that Act provided for two forms for consent, one to be used where the identity of the adoptive parents was known, and the other where it was not. Section 23 of this Act stated that ‘Adoption records shall not be available for production or open to inspection except on the order of the court’ - except for limited access to estate administrators and marriage celebrants. This section has been seen to reflect the secrecy surrounding adoptions; it applies to documents held by the Court, but does not apply to all of the information held by the Department. It does, however, include the copies of the report prepared for the Court by the social worker, and retained on file.

The climate of secrecy surrounding the adoption process encouraged a number of erroneous assumptions about the people involved. For example: (a) Birth parents gave their children away because they did not care about them. (b) The less birthparents had to do with the baby, the placement and the adoptive parents, the easier it would be to put the whole experience behind them. (c) If adopted people were happy with their adoptive parents they would not want to know anything about their birth parents. (d) Secrecy was necessary to protect everybody concerned. Josh Shawyer’s book *Death By Adoption* (Cicada Press, 1979) made it clear that the assumptions about birth parents were not valid. A growing number of adopted people and adoptive parents began to point out that the limitations imposed on the adopted person’s natural need for a complete sense of self were unjust and discriminatory, even if the original intent had been to protect the adoptive family’s privacy. Changing attitudes to adoption, and in particular the undesirability of assuming absolute secrecy in adoption matters led to the introduction of Jonathan Hunt’s private member’s bill in 1977. Seven years later the Adult Adoption Information Act 1985 finally became law. The assumption of secrecy was so great at that time, it was considered that new legislation was necessary to rebut that assumption, and establish a statutory scheme for granting access. The passage of the Official Information Act in 1982 had limited effect on Departmental policy, with regard to adoption records. Non-identifying information had continued to be made available to the immediate parties to the adoption, but the names of the other parties were not available unless those other parties had left a record of their agreement to this on department files. The High Court has ruled that the Service may be under a statutory duty not to disclose identifying information, apart from by the procedure set out in the Adult Adoption Information Act.

The Privacy Act was enacted in 1993. It contains 12 Information Privacy Principles which cover how the Service may collect, use and disclose personal information. These are discussed in the Adoption Manual. The Act takes over the parts of the Official Information Act that used to deal with an individual’s rights of access to personal information. It also imposes restrictions on the disclosure of personal information to third parties. The Official Information Act still applies in respect of information held about somebody else other than the requester.

Three Acts of regulate access to information

1.2 There are now, therefore, three Acts of Parliament relevant in considering access to adoption information held by the Service.—Adult Adoption Information Act 1985. Privacy Act 1993. Official Information Act 1982. The combination of these three Acts, and different Court rulings on issues of disclosure of adoption information make it very difficult to state definitively what the law will be in all cases. The following paragraphs are intended as a guide. If a social worker is in doubt as to what information should be made available in a particular case, the matter must be discussed with the supervisor, and advice should be sought from the Service's legal advisers.

Guidelines for practice

1.2.1 In carrying out the tasks required by each of the Acts, the following principles or guidelines should be observed: (i) Information about one's natural background is basic to the development of self-identity. (ii) Information about a child placed for adoption helps birth parents come to terms with their loss, and move forward in their own lives. (iii) Requests for information and contact are part of a normal developmental process, and counselling should take account of this. (iv) Contact and the exchange of information, in general, enhances existing relationships. (v) Most adopted people, adoptive parents and birth parents are responsible and sensitive in their use of information and when making contact. (vi) Adoption Support and self-help groups have an important role to play. (vii) Issues addressed by the Adult Adoption Information Act are relevant to all other aspects of adoption practice. (viii) Birth parents who gave children for adoption before 1986 did so on the understanding that their identity would not be disclosed in the future. (ix) Every precaution should be taken to protect the privacy of people requesting or exchanging information under the provisions of the Acts.

Receiving requests for information

1.3 It is important to note that each of these Acts only applies when a request or sending information that has not been requested. Social workers need to make an initial assessment, on receipt of a request for information, of which statutory scheme applies. Formulating an appropriate response to a request might involve more than one of either the Privacy, Adult Adoption Information or Official Information Acts. In order to decide which Act(s) apply to a request, an understanding of the following terms is required: Identifying information, Non-identifying information, Personal information, Official information

Identifying information

1.3.1 The definition in the Adult Adoption Information Act is given as 'in relation to any person, that person's name or address; and includes any information that is likely to enable any other person to ascertain that person's name or address.' Where the Adult Adoption Information Act prohibits disclosing a name, extreme care should be exercised in deciding whether or not to disclose a first name only, depending on whether or not it is likely to identify a particular person. The Adult Adoption Information Act prohibits the disclosure of a name: in Section 3(1) relating to a birthparent's right to veto, in Section 8 (2) (d)

(iii) which states that the name of the adopted person shall not be communicated to the applicant unless that person has indicated to the social worker that that person is willing...' in Section 9(3)(a) in which identifying information relating to a birthparent shall be disclosed 'if, and only if, details of that parent appear in the original birth certificate. Section 11 (6) in which it is stated that no doctor shall disclose any identifying information obtained as a result of this section. It is important to remember that, in addition to 'name and address', the definition of identifying information includes any information that is likely to enable any person to ascertain that person's name and address. While the Adult Adoption Information Act does not limit or restrict the Service's ability to disclose non-identifying information, it is probable that the more seemingly non-identifying information which is given out, the more likely it is that the inquirer will be able to ascertain, by further enquiry, the name and address of the person. Dates of birth, place names and very specific occupations or associations may well enable the diligent inquirer to identify the other person, and should not be given. Making the information more general will reduce the likelihood of identification of the individual. To decide whether any information is identifying, it is necessary to scrutinise each bit and decide whether it would give any leads for further enquiry.

Non-identifying information Section 14

1.3.2 Adult Adoption Information Act says 'Nothing in this Act shall affect the disclosure to any person of any information relating to any other person that is not, in relation to that other person, identifying information.' This section of the Act notwithstanding, social workers must have regard to the personal privacy provisions of Privacy Act when providing non-identifying information from the Service's records. In general terms, an adopted person can be given information about the physical characteristics of his or her birth parents and family members, their general health, education, ethnic origins and general family circumstances. This information has a very direct bearing on his or her own personal knowledge about himself or herself, and should not infringe the rights to privacy of the birth parents concerned. There may be other information recorded, however, which is of such a nature that to give it out would possibly cause embarrassment to the parent concerned, and which is plainly his or her own information, and not the adopted child's. Similarly, when birth parents request information about the family in which their child was placed, consideration has to be given to enabling the person to obtain a realistic picture of the circumstances as they affect the child, without passing on information that is clearly personal to adoptive parents only.

Personal information

1.3.3 This term is defined by the Privacy Act. It means 'information about an identifiable individual, and includes information contained in any register of deaths kept under the Births and Deaths Registration Act 1995'. The key part of the definition is 'about an identifiable individual'. In the context of requests for information, this means information about the person making the request. An adopted person requesting information about himself or herself is a request for personal information. A birthparent request-

ing information about himself or herself from the form SW581, 'Report on Child Available for Adoption', is a request for personal information. To determine whether or not a request is for personal information, it may be helpful to ask, 'What does this information say about the requester?' Keep in mind that the personal information can be (and often is) about more than one person. The identity of an adopted person's birthparent is of great interest and significance to the adopted person, but it is not their information.

Official Information

1.3.4 This term is defined very broadly in the Official Information Act 1982. It means 'any information held by a department' A request for personal information about a third party, somebody other than the requester, is a request for official information. The Official Information Act sets out the law relating to access to information about other people. However, neither the Official Information Act nor the Privacy Act override other Acts (such as the Adult Adoption Information Act) which authorise, require, prohibit or restrict the availability of official information

Processing requests for information

1.4 When a request for information is received, the social worker handling the matter must decide what category the request falls into. If the request is one that appears to be governed by the Adult Adoption Information Act, that Act must apply. If the request falls outside the Adult Adoption Information Act, the Privacy Act, or the Official Information Act will apply, depending on who is making the request and what information they are requesting. The following examples might be helpful: A request by an adopted person over the age of 20, for the current name and address of a birth parent must be processed under the Adult Adoption Information Act. A request by the birthparent for the current name and address of an adopted person over 20 must be processed under the Adult Adoption information Act. A request by an adopted person under the age of 20 for identifying information about the birthparent is a request for personal information about somebody else, and must be processed under the Official Information Act. A request by the birthparent for information about his or her adopted child is a request for information about another person and must be considered under the Official Information Act. A request by an adopted person of any age for non-identifying information about his birth family must be processed under the Official Information Act. A request by an adopted person for information about natural siblings, grandparents or other relatives will be a request for official information, and the procedures under the Official Information Act apply. A request from other relatives about an adopted person will be handled under the Official Information Act. If the Adult Adoption Information Act does not apply, and it is difficult to decide whether the request is one for personal information or official information, the tests for whether the information may be released under each Act should be applied. To protect the privacy of either party, the information should not be released unless it passes the tests under both the Official Information Act and the Privacy Act. When a decision is made to withhold information, the person requesting the information should be

advised of his or her right to request an investigation of the matter by the Ombudsman or the Privacy Commissioner as the case may be.

Release of first names

1.5 The knowledge of a name, even a first name, is of great importance to family members who have been separated by adoption. For birthparents and for adopted people, whether adult or young people, to have a name to attach to the missing person who is in their thoughts, helps, if only a little, to reduce feelings of unreality about that person. The Service cannot release even the first name of an adopted adult, or of a birth parent, if the disclosure of identifying information has been vetoed under the Adult Adoption Information Act. In cases where the veto does not apply, the Service may release a first name, but has a responsibility to consider the right to personal privacy of the person whose name is sought. A first name should not be released without the consent of the named person when because of its unusual nature, or for other reasons such as the combination of the name with other biographical details it does identify a particular person. The importance of knowing a name is such that the Service's position is to take the most liberal view in order to meet a strongly felt need. Social workers must consider their responses to requests for information very carefully, and have regard to balancing the competing rights to personal privacy and to freedom of information that are at issue. If the first name is particularly distinctive, perhaps a second name may be given in its place. If there is a chance of a requester, through combining a first name with biographical information, determining the identity of the person, the biographical information may be edited or omitted. These options may be able to be discussed with the requester.

When a name may be given

1.5.1 Apart from the provisions of the Adult Adoption Information Act; (a) The first name(s) given to the adopted person by the birthparent(s) in the original birth registration may be disclosed to the adopted person or the adoptive parents. This is no longer identifying information. (b) The name, including first name, of a birthmother or a birthfather may be disclosed to an adopted person, or in the case of an adopted person under the age of 20, to the adoptive parents, when there is specific written permission from the birthparent in question. (c) The first name only of a birthparent may be disclosed to an adopted person, or in the case of an adopted person under the age of 20, to the adoptive parents, where that first name, when taken in context with other biographical information about the birthparent, does not, or is not likely to, identify a particular person. (d) The name, including first name, of an adopted person may be disclosed to a birthparent of that adopted person, when there is specific permission from that adopted person, or in the case of an adopted person under the age of 20, that adopted person's adoptive parents also. (e) The first name only of an adopted person may be disclosed to a birthparent of that adopted person, where that first name, when taken in context with other biographical information about the adopted person, does not, or is not likely to, identify a particular person. (f) There is no justification for the disclosure of the names of any other persons concerned

with the adoption, e.g. adoptive parents or siblings, unless their permission for this has been given. (g) A first name may not be disclosed to an adopted person when a birthparent has placed a veto, or to a birthparent when the adopted person has placed a veto.”

Source Adoptions Information Manual CYPS DSW 1995

Overview notes Iwanek

— Department faced with a major philosophical shift

Iwanek— “From carefully protecting secrecy to one of promoting openness. The secrecy and mystery that has surrounded past adoption practices and legislation has been so powerful that any suggestion of change is perceived as a threat, and anyone searching is treated as either a person in need of counselling and psychiatric services, or one of a small group of political activists.” 1991 Ch.3

— Why Access became issue at this point in History

“Great Britain changed legislation in 1975. Activist groups in USA, Canada, and Great Britain initiated pressure on their governments for legal changes as well as publishing books which described people’s personal journeys in tracing their birth families. These books had a major impact on the adoption community and resulted in similar activist and adoption support groups being formed in NZ.

— The main concerns of these groups were

(a) The law on adoption information was unclear and subject to varying interpretations. Open adoption practices had been initiated and adoptive parents and birth parents were now encouraged to maintain contact. This practice challenged the secrecy of adoption which had until now been seen as an essential aspect of adoption legislation. (b) Media stories on adoption reunions demonstrated that people were able to search and make contact regardless of the law. (c) Voluntary agencies and support groups became actively involved in facilitating and promoting searches and reunions between adopted people and birth parents. Support groups were formed in the major centres. A number of the groups were actively supported by voluntary agencies such as Barnardos, Catholic Social Services in Christchurch and Methodist Social Services. (d) Courts had allowed more applications on special grounds under Section 23 of the Adoption Act (1955). This reflected changes in the opinions of judges in some areas. (e) There was a change in public opinion in favour of access to reformation. Results of surveys and research about reunions and the effects secrecy had on birth parents and adopted people gave powerful messages to the general public. (f) Visits by Dr Triseliotis from Britain, who had been the main force behind changes there, helped strengthen support group in New Zealand in working for change. Social forces in the 1960’s and 1970’s had prepared a climate which made it acceptable for people to ask questions about their origins. With the passing of legislation in Britain it was easier for New Zealand groups to demand similar changes as a precedent had been set.

— Support group campaign

Support groups were greatly helped by the experience of Great Britain. The campaign in New Zealand was mod-

elled on that in Great Britain to the extent that there were no organised mass marches or rallies. Members of groups believed change was going to come out of the result of public education, presenting people with the facts in a factual matter rather than using emotive arguments, believing that ultimately the reasonableness and the righteousness of the situation would make people want to vote for change.

— Synopsis of Support Groups’ Activities

The strategy of support groups was to operate on two levels. (a) Establishing a Parliamentary Power Base. They established a parliamentary power base. Experts and prominent people who had direct access to members of Parliament through formal or informal channels were lobbied. This enabled campaigners to enlist support, thereby establishing a power base in Parliament even though it was within the Opposition. (b) Lobbying MP’s and Public Education. Lobbying of members of Parliament by support group members and individuals living in the MPs constituency was evident. Support group members and individuals took part in other activities such as speaking at training courses for adoptive parents, writing letters to the editor, writing to MP’s, and participating in radio talk back. The avoidance of airing any differences the groups might have and the avoidance of emotional publicity were seen as important. They attempted to keep to the facts and real stories, without sensationalisation. Intensification of activities at appropriate moments and for limited periods was part of the strategy. By successfully strategising on two levels, the groups appear to have been relatively effective.

— Informal Political Processes

An examination of the personal papers of Mr Hunt covering the years from 1975 to 1985 demonstrates the considerable number of informal communications which had taken place between different members of parliament and Government ministers. Prominent people who were unwilling to come forward and make formal submissions, even though they were promised confidential hearings, preferred to use the informal network and personal contacts. Copies of correspondence to members or ministers were sent to Mr Hunt for his information and possible response. Most of the informal network was strongly opposed to the several bills presented to the House, in this network were many adoptive parents who held prominent positions. From the tone of their letters, they were obviously hoping by making a personal representation, their letters and their concerns would be taken into consideration. Mr Hunt’s correspondence suggests that there were a considerable number of people who used their own personal associations with members of parliament and positions of power in the community to persuade and influence individual politicians and ministers of the crown. Those who used the informal network of influencing legislative change tended to come from the legal profession, the medical profession and journalism.

Source Mary Iwanek Thesis 1991 Ch.3

NEW ZEALAND ADOPTION POPULATION - TABLE No.1

YEAR	Number of Adoption Orders	Cumulative Adoptions Orders	Cumulative Adoptees Died at 65+	Death at 65 adjusted Cumulative	New adult Adoptees Per Year	Adult Adoptees Cumulative	Adult Adoptees Dying at 65	Death at 65 adjusted Cumulative
	A	B	C	D	E	F	G	H
1880	0							
1881	1	1		1				
1882	30	31		31				
1883	22	53		53				
1884	32	85		85				
1885	28	113		113				
1886	48	161		161				
1887	54	215		215				
1888	60	275		275				
1889	48	323		323				
1890	62	385		385				
1891	67	452		452				
1892	50	502		502				
1893	52	554		554				
1894	69	623		623				
1895	66	689		689				
1896	78	767		767				
1897	90	857		857				
1898	102	959		959				
1899	113	1072		1072				
1900	125	1197		1197				
1901	137	1334		1334	1	1		1
1902	149	1483		1483	30	31		31
1903	160	1643		1643	22	53		53
1904	172	1815		1815	32	85		85
1905	184	1999		1999	28	113		113
1906	195	2194		2194	48	161		161
1907	207	2401		2401	54	215		215
1908	219	2620		2620	60	275		275
1909	215	2835		2835	48	323		323
1910	187	3022		3022	62	385		385
1911	221	3243		3243	67	452		452
1912	232	3475		3475	50	502		502
1913	246	3721		3721	52	554		554
1914	256	3977		3977	69	623		623
1915	246	4223		4223	66	689		689
1916	272	4495		4495	78	767		767
1917	264	4759		4759	90	857		857
1918	280	5039		5039	102	959		959
1919	381	5420		5420	113	1072		1072
1920	417	5837		5837	125	1197		1197
1921	420	6257		6257	137	1334		1334
1922	349	6606		6606	149	1483		1483
1923	364	6970		6970	160	1643		1643
1924	320	7290		7290	172	1815		1815
1925	382	7672		7672	184	1999		1999
1926	404	8076		8076	195	2194		2194
1927	421	8497		8497	207	2401		2401
1928	409	8906		8906	219	2620		2620
1929	402	9308		9308	215	2835		2835
1930	385	9693		9693	187	3022		3022
1931	329	10022		10022	221	3243		3243
1932	337	10359		10359	232	3475		3475
1933	332	10691		10691	246	3721		3721
1934	338	11029		11029	256	3977		3977
1935	340	11369		11369	246	4223		4223
1936	413	11782		11782	272	4495		4495
1937	444	12226		12226	264	4759		4759
1938	570	12796		12796	280	5039		5039
1939	530	13326		13326	381	5420		5420
1940	632	13958		13958	417	5837		5837
1941	561	14519		14519	420	6257		6257
1942	773	15292		15292	349	6606		6606
1943	557	15849		15849	364	6970		6970
1944	1313	17162		17162	320	7290		7290
1945	1191	18353		18353	382	7672		7672
1946	1373	19726	1	19725	404	8076	1	8075
1947	1339	21065	31	21034	421	8497	30	8466
1948	1362	22427	53	22374	409	8906	22	8853
1949	1249	23676	85	23591	402	9308	32	9223
1950	1255	24931	113	24818	385	9693	28	9580
1951	1405	26336	161	26175	329	10022	48	9861
1952	1430	27766	215	27551	337	10359	54	10144
1953	1445	29211	275	28936	332	10691	60	10416
1954	1347	30558	323	30235	338	11029	48	10706

NEW ZEALAND ADOPTION POPULATION - TABLE No.1

YEAR	Number of Adoption Orders	Cumulative Adoptions Orders	Cumulative Adoptees Died at 65+	Death at 65 adjusted Cumulative	New adult Adoptees Per Year	Adult Adoptees Cumulative	Adult Adoptees Dying at 65	Death at 65 adjusted Cumulative
	A	B	C	D	E	F	G	H
1955	1455	32013	385	31628	340	11369	62	10984
1956	887	32900	452	32448	413	11782	67	11330
1957	1691	34591	502	34089	444	12226	50	11724
1958	1671	36262	554	35708	570	12796	52	12242
1959	2302	38564	623	37941	530	13326	69	12703
1960	2242	40806	689	40117	632	13958	66	13269
1961	2579	43385	767	42618	561	14519	78	13752
1962	2645	46030	857	45173	773	15292	90	14435
1963	2843	48873	959	47914	557	15849	102	14890
1964	2885	51758	1072	50686	1313	17162	113	16090
1965	3088	54846	1197	53649	1191	18353	125	17156
1966	3462	58308	1334	56974	1373	19726	137	18392
1967	3513	61821	1483	60338	1339	21065	149	19582
1968	3780	65601	1643	63958	1362	22427	160	20784
1969	3888	69489	1815	67674	1249	23676	172	21861
1970	3837	73326	1999	71327	1255	24931	184	22932
1971	3976	77302	2194	75108	1405	26336	195	24142
1972	3642	80944	2401	78543	1430	27766	207	25365
1973	3524	84468	2620	81848	1445	29211	219	26591
1974	3366	87834	2835	84999	1347	30558	215	27723
1975	3322	91156	3022	88134	1455	32013	187	28991
1976	2942	94098	3243	90855	887	32900	221	29657
1977	2550	96648	3475	93173	1691	34591	232	31116
1978	2452	99100	3721	95379	1671	36262	246	32541
1979	2200	101300	3977	97323	2302	38564	256	34587
1980	2153	103453	4223	99230	2242	40806	246	36583
1981	1864	105317	4495	100822	2579	43385	272	38890
1982	2346	107663	4759	102904	2645	46030	264	41271
1983	1845	109508	5039	104469	2843	48873	280	43834
1984	1670	111178	5420	105758	2885	51758	381	46338
1985	1438	112616	5837	106779	3088	54846	417	49009
1986	1230	113846	6257	107589	3462	58308	420	52051
1987	1211	115057	6606	108451	3513	61821	349	55215
1988	1005	116062	6970	109092	3780	65601	364	58631
1989	889	116951	7290	109661	3888	69489	320	62199
1990	906	117857	7672	110185	3837	73326	382	65654
1991	806	118663	8076	110587	3976	77302	404	69226
1992	794	119457	8497	110960	3642	80944	421	72447
1993*	739	120196	8906	111290	3524	84468	409	75562
1994*	683	120879	9308	111571	3366	87834	402	78526
1995*	640	121519	9693	111826	3322	91156	385	81463
1996*	540	122059	10022	112037	2942	94098	329	84076
1997*	591	122650	10359	112291	2550	96648	337	86289
1998*	543	123193	10691	112502	2452	99100	332	88409
1999*	411	123604	11029	112575	2200	101300	338	90271
2000*	364	123968	11369	112599	2153	103453	340	92084
2001*	319	124287	11782	112505	1864	105317	413	93535
2002*	325	124612	12226	112386	2346	107663	444	95437
2003*	323	124935	12796	112139	1845	109508	570	96712
2004*			13326		1670	111178	530	97852
2005*			13958		1438	112616	632	98658
2006*			14519		1230	113846	561	99327
2007*			15292		1211	115057	773	99765
2008*			15849		1005	116062	557	100213
2009*			17162		889	116951	1313	99789
2010* *Year ending 30th June			18353		906	117857	1191	99504

Data Sources: Adoptions 1881-1895 Legislative Council Reports. 1896-1907 Projectons. 1908-1925 Education Department Reports. 1926-1964 NZ Year Book. 1964-1992 Department of Social Welfare Annual Reports. Appendix to House Journals. Reports E 12. **Note:** Inter-country Adoptions are not included due to lack of statistics. **See Next Page above Data Calculations**

Adoptee Population Calculation Table

Limitations

There are two major difficulties in estimating the adoptee population, (a) unknown age at adoption (b) unknown age at death. We have to rely on estimates based on statistical averages from official reports. The age at adoption data, is on Court Adoption Records, but has never been fully tabulated, and is not open to search. Deaths of adoptees are not recorded as such. The following assumptions have been made in calculating the tables—

— **Age at adoption** The tables are calculated on the basis that all adoptions took place within the child's first year. Some adoptees are adopted in early childhood or later, compensation is made by adjustment of death rate.

— **Age at death** The table is based on the assumption that adoptees are adopted in their first year and die at age 65.

This is less than average, but compensates for the number of adoptees adopted over 1 year of age.

I attempted to apply sophisticated life expectancy tables, but lack of base data made this unproductive. A simple formula has been used so researchers will know exactly how the tables have been calculated and they can undertake further refinement if required. Within the limitation of the data, trends are clear, but precise detail is not possible. Note also, no Maori adoptions prior to 1962 are included in these population calculations, as no Maori statistics were kept prior to 1962. Also, immigrant adoptees and intercountry adoptions where the child was adopted overseas and brought back to New Zealand are not included due to lack of statistical data.

— **Column A** Number of adoption orders issued per year.

— **Column B** Cumulative number of adoption orders issued. It makes no allowance for death rates.

— **Column C** Cumulative number, deaths of adoptees as they reach 65. Calculated by displacing the accumulated adoption orders in Column A, 65 years downward.

— **Column D** Death adjusted adoptee population total for any given year. It is calculated by deducting the adoptee deaths per year in Column G from Column F the cumulative total of adult adoptees.

— **Column E** New adult adoptees per year. Calculated by displacing the number of adoption orders in Column A downward in Column E by 20 years. Thus Column E displays the numbers of adoptees reaching 20 years of age for any given year.

— **Column F** Accumulating adult adoptee population.

— **Column G** Deaths of adult adoptees per year as they reach the average age of 65. It is calculated by displacing the adoption orders of Column A downward by 65 years. Thus Column G displays the number of adult adoptees that die in any given year.

— **Column H** Death adjusted adult adoptee population total for any given year. It is calculated by deducting the cumulative adoptee deaths per year in Column C from Column F the cumulative total of adult adoptees. Thus Column H displays the estimated living adult adoptee population for any given year.

Adoptee access to identifying information

1881-1955 It was much easier to obtain identifying information. Most of the adoptee population knew their origins, or could if they wanted. The reasons were—

— **Consent identity** “Before the passing of the Adoption Act 1955 a consent to adoption was a nullity unless the identity of the proposed adopters had been disclosed.” Campbell 1957 p37.

— **Adoption order application** Forms that adopting parents signed included the child’s full birth name, and birth mother’s name and address. Parents were often concerned about the child’s background, possible genetic effects or bad blood. Knowing just where the child came from was often an import factor in calming fears.

— **Private adoption** was quite common, mostly arranged by a private agency, doctor, hospital staff, clergy,

solicitor, friend or sometimes a response to a newspaper advertisement. The child’s identity was known to the intermediary who often passed it on to the adopting parents.

— **Adoption order** A copy with the adoptees full birth name was issued to all adoptive parents. This document was filed with family papers in most adoptive homes prior to 1955, and prone to adoptee discovery.

— **Original birth entry 1881-1915** All adoptees had their original birth certificate. Prior to 1951 there was no restriction on adoptees inspecting their original birth entry.

— **Gossip line** The age old ‘Did you know’ about illegitimate scandals was an efficient adoption information exchange. If your parents won’t tell you, someone will. At least half the adoptees were placed within the same district they were born.

1955-1985 The main clamp on adoption secrecy came with the Adoption Act 1955 with attempts to impose complete break theory and practise.

Official secrecy was imposed by new statutes, regulations and the appointment of the Child Welfare Department as the only adoption agency. The official secrecy clamp had little effect on the major information source, adoptive parents passing on their gleaned information to their adopted children.

Non-stranger adoption The imposition of increased secrecy was eventually offset by increases in non-stranger adoptions. This was mostly due to increases in (a) Stepparent or in-family adoptions. (b) Adoption of older children. (c) Increasing open adoptions. Between 1955 to 1974 new closed adoptions exceeded non-stranger adoptions, reaching a peak of 69.2% in 1968. By 1975 they declined to 47.6%, by 1985 23% were stranger adoptions.

1985-1996 The Adult Adoption Information Act 1985 both provided for and accelerated adoption openness. Closed adoption is now a minority practice. While the complete break theory with its emphasis on closed adoption had been largely discredited by the late 1970s, it was not until the Adult Adoption Information Act 1985 that the practise of closed adoption records changed. The Act effectively ended the 1955-1985 era of closed adoption records, as far as adult adoptees were concerned. Between 1985 and 1996, 22,972 adult adoptees applied for their original birth identifying information. Also, 6,163 birth parents applied under the Act for identifying information on their child, now an adult.

Conclusion

Having analysed the statistics and thousands pages of documentation, I conclude 1881-1955 about 40% of adoptees did not know their origins, 60% did or could know if they wanted. 1955-1985 About 55% of adoptees did not know their origins. About 60% did or could know if they wanted. 1985-1995 Approximately 65% of adoptees know their origins and 35% did not. Thus in the total adoption population, at any given time, the percentage of closed secret adoptions probably never exceeded the 50% level.

Adult adoptees with identifying information

As at 1996 approximately 75% of the adult adoptee population knew their birth origins and 25% did not.

Adult Adoptee Knowledge of Origins 1996	
Adult adoptee population	84076
Less 50% know origins without 1985 Act	42038
Adult adoptees not knowing origins	42038
Applications by adoptee or BP per 1985 Act	22927
Deduct 10% applicants who applied but already had identifying information -2,293	20634
Deduct the 20634 from 42038 above	21404
Adult adoptee population at 1996	
21,404 = 25% no identifying information	
62,627 = 75% have identifying information	
84,076 Total adult adoptees at 1995	

Note this does not mean that there are only 21,404 adult adoptees left to obtain identifying information, because each year a new batch of adoptees will turn 20 and increase the adult adoptee population. The new adult adoptee figures can be calculated quite accurately and are given in Adoptee Population Table Column E and shown on Chart 4C. For 1997 there will be 2550 extra new adult adoptees, but about half will already know their origins. With present application rates of 2000 plus per year means that further reduction of the percentage of ‘don’t know their origins’ will continue.

Identifying Information

— What constitutes identifying information?

The Adult Adoption Information Act s2 interpretation- ‘Identifying information’, in relation to any person, means that person’s name or address; and includes any information that is likely to enable any other person to ascertain that person’s name or address.” s2. This interpretation may seem simple but on closer examination it raises many questions.

— That persons name and address

The question arises as to what name and what address does the Act refer to? For example, the typical case of a birth mother since twice married. Does the name in the Act refer to her maiden name Mary Jones?, or her married name Mary Smith? or second marriage name Mary Poppins. Does the Act refer to the name at the time of the adoptees birth, or any subsequent name? it remains undefined by the Act. Likewise with ‘address’, does this refer to the address at the time of the adoptees birth, her home address in Wellington? The address where she stayed during her pre-confinement in Taihape? or the address of the hospital where the baby was born?, or any one of perhaps 20 addresses she had? Some have interpreted the Act to mean any names or addresses of the birth parent. But this is not what the Act says, it does not use the word ‘any’ and also ‘name’ and ‘address’ is in the singular, not plural or multiple. Also does the word “name” refer to the full name of the birth parent or can it refer to just the surname or a first-name. If a constable asks for my name and I say ‘Bill’,

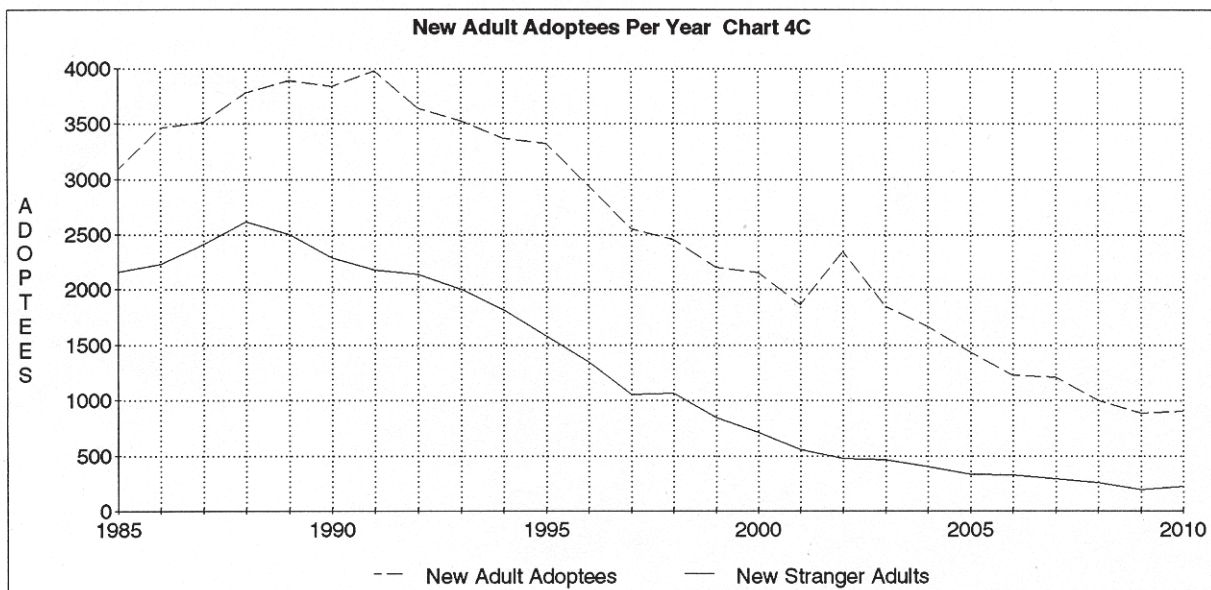
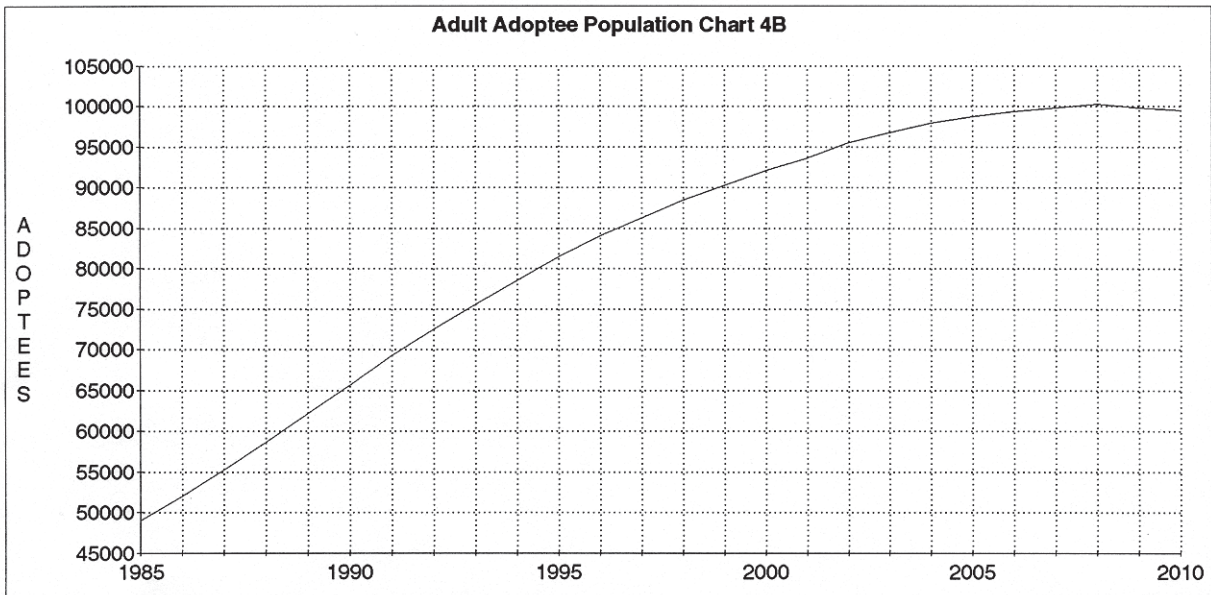
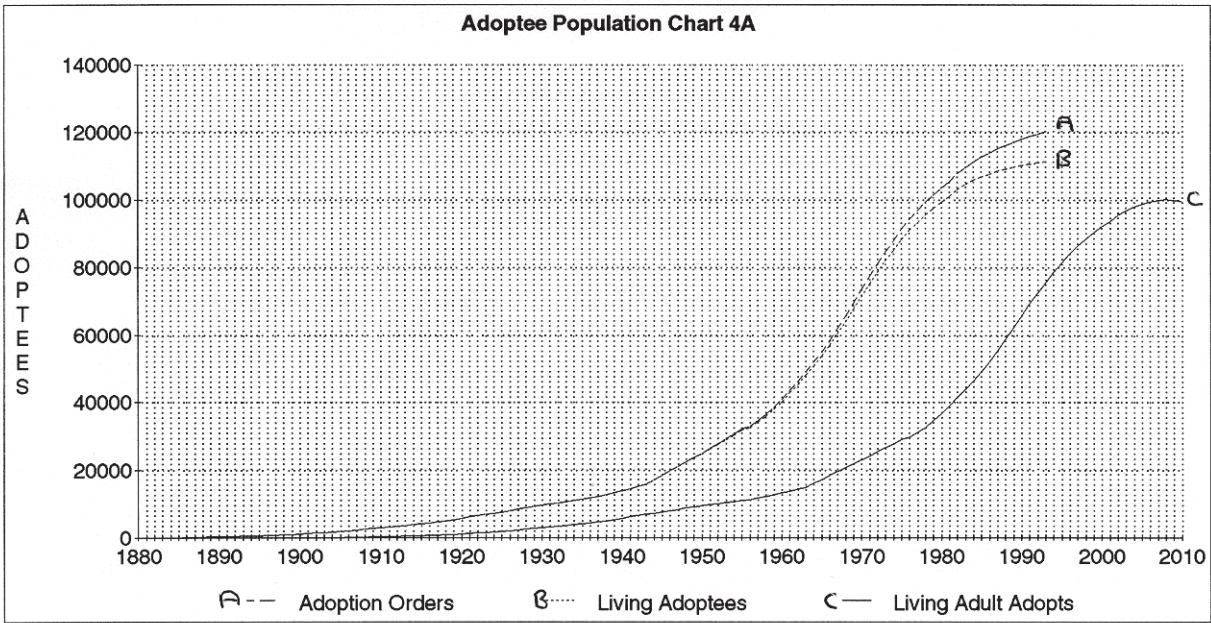
that will not suffice as identifying information, he requires my full name. Hence some have interpret the Act as referring to the full name, or the surname, but allow the adoptee to know their birth mothers first name provided it is a common one and there is no surname to identify with.

— Phrase “and includes any information that is likely to enable any other person to ascertain that person’s name and address” Some have interpreted this as a “catch all” prohibition on anything that may lead the identity of the birth parent. If that was the case it would prohibit almost any information (including the so called non-identifying information in the Act) on the birth parent being released, because it is often a small piece of apparently innocent information that gives proof of the identity of the person. Note however, there is a conditional phrase used in the Act ‘is likely to enable any other person to ascertain that persons name and address.’ The key word is ‘likely’. In other words a high probability that the information will lead to identification of the birth parent or adoptee. In the example previously give, if the adoptee is given the birth mothers name as Mary but no surname it is most unlikely to be identifying information.

Practical aspects of identifying information

Meaning of word *Identifying*, ‘to prove or recognize as being a certain person or thing.’ Collins English Dict. Meaning of word *Information*, ‘knowledge acquired through experience or study’ ‘the act of informing or the condition of being informed.’ Collins English Dictionary.

Identifying information, in the context of this Act, is the information required to prove the person is *the* birth parent, or *the* adoptee that we seek to identify. This normally requires the persons surname and at least one first name, some additional material will almost certainly required to confirm the identity. The surname on its own does not necessarily constitute identifying information, it requires also at least one surname as an identifier to sort people of that surname. For example, if you have a very uncommon surname, like Butterfly-Jones, the surname plus one first name may suffice to give identifying information. But if the name is William Smith, then you require a lot more data to constitute identifying information to ‘prove or recognize’ the right William Smith, and his present address. If the name is a common name, it requires much more information to confirm positive identification.



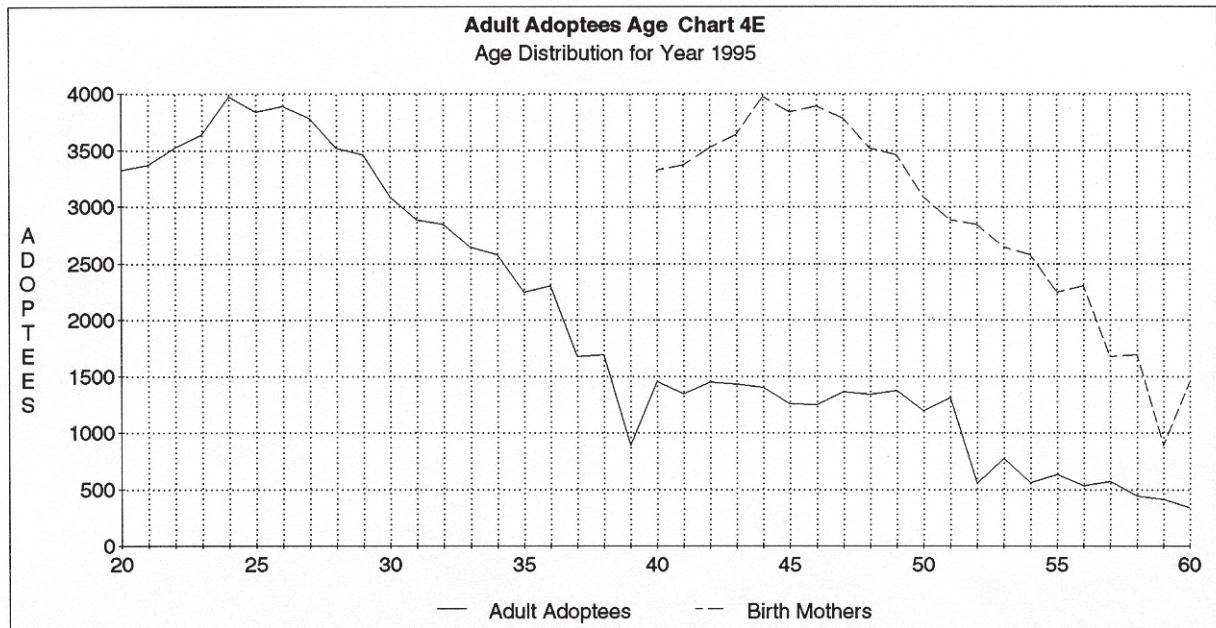
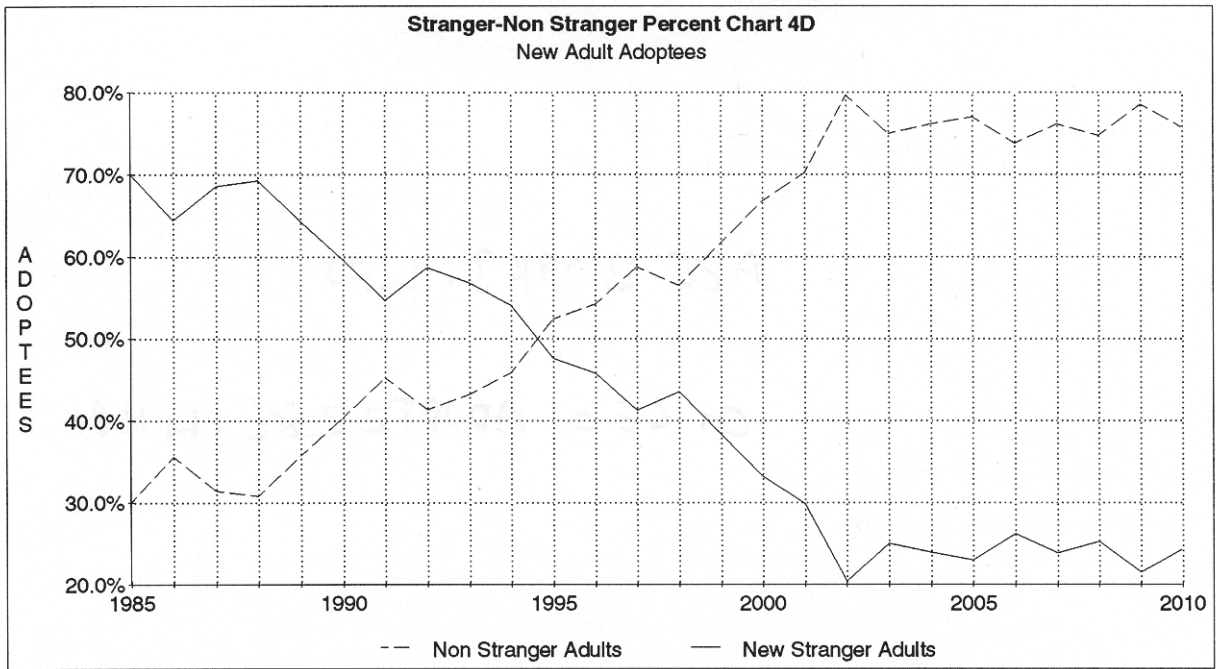


Chart 4A Adoptee Population 1881-1995. Overview of adoptee population throughout our adoption history. Adoption orders Top line, cumulative number of court adoption orders issued, reveals total number of adoptees. Living Adoptees Middle line, allows for deduction of estimated death rate of older adoptees, reveals estimated cumulative number of living adoptees. Living adult adoptees Bottom solid line, reveals cumulative number of adult adoptees.

Chart 4B Adult adoptee population 1985-2010. Reveals the cumulative adult adoptee population for period 1985-2010. Note flattening off of new adult adoptees from year 2000, due to decreasing adoptions back in the 1980s and increasing deaths of older adoptees. At 2010 the adult adoptee population will reach its peak, then decline due to death rate exceeding new replacement adoptees.

Chart 4C New adult adoptees per year 1985-2010. New adult adoptees Top dashed line, reveals number of new adult adoptees (attaining age of 20) per year for period 1985-2010. New stranger adults Bottom solid line, number of new adult adoptees from stranger adoptions coming on stream each year. They are the most likely potential applicants under the Adult Adoption Information Act, many will lack identifying information. The gap between the two lines represents the numbers of new adult adoptees from non-stranger adoptions coming on stream each year, will already have identifying information.

Chart 4D Stranger and non stranger percentage of New Adult Adoptees 1985-2010. Reveals percentage of new adult adoptees from stranger and non-stranger adoptions for period 1985-2010.

Chart 4E Adult adoptee age distribution Year 1995. Adult adoptees The solid line, reveals age distribution of total adult adoptee population between 20 to 60 years. Birth mothers Dashed line, reveals age distribution of birth mothers of now adult adoptees, assuming that the birth mothers were 20 years older on average than their adopted offspring.

Chart 4A Adoptee Population 1881-1995.

Chart 4B Adult adoptee population 1985-2010.

Chart 4C New adult adoptees per year 1985-2010.

Chart 4D Stranger and non stranger percentage of New

Chart 4E Adult adoptee age distribution Year 1995.

ADOPTED PERSON ACCESS TO ORIGINAL BIRTH ENTRY

Adult Adoption Information Act 1985 s4-5.

Application and verification

"Any adult may make a written application to the Registrar-General for an original birth certificate in relation to the applicant; and in that case the following provisions shall apply:

(a) Where it does not appear from the records of the Registrar-General that the applicant is adopted, the Registrar-General shall so notify the applicant in writing:" s4(1)(a)

Check for veto

s4(1) "(b) Subject to subsection (2) of this section, where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of March 1986, and that- (i) Details relating to only one of the applicant's birth parents appear in the original entry of the applicant's birth, and there is on that entry any unexpired endorsement under section 3(2) of this Act relating to that parent; or (ii) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, and there are on that entry unexpired endorsements under section 3(2) of this Act relating to each of those parents, -section 5(1) of this Act shall apply to the applicant:

(c) Where it appears from the records of the Registrar-General that the applicant was adopted before the 1st day of March 1986, and that- (i) Details relating to both of the applicant's birth parents appear in the original entry of the applicant's birth, but there are on that entry unexpired endorsements under section 3(2) of this Act relating to only one of them; or (ii) There are no unexpired endorsements under section 3(2) of this Act on that entry, - section 5(2) of this Act shall apply to the applicant:

(d) Where it appears from the records of the Registrar-General that the applicant was adopted after the 28th day of February 1986, section 6 of this Act shall apply to the applicant.

(2) Where- (a) There is on the original entry of the birth of an adopted person any unexpired endorsement under section 3(2) of this Act relating to a birth parent of that person; and (b) The Registrar-General is satisfied that that person is dead- paragraphs (b) and (c) of subsection (1) of this section shall apply to any application under that subsection as if that endorsement had expired." s4(1)(2)

Counselling

"The Registrar-General shall notify the applicant in writing- (i) If the applicant lives within New Zealand, of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and (ii) That except where the applicant lives outside New Zealand, an original birth certificate will not be given to the applicant until the applicant has received counselling;" s5(2)(a)

Unexpired veto

Certificate issued with vetoed birth parent details omitted "The Registrar-General shall inform every applicant ... of the existence, effect, and date of expiry of the endorsements concerned, ... shall send the applicant an original birth certificate from which all details relating to the applicant's birth parents have been omitted." s5(1)

If both birth parents on birth entry with one vetoed

Where "Details relating to both of the applicant's birth parents appear in the original entry ... but there are on that entry unexpired endorsements... relating to only one of them ... section 5(2) of this Act shall apply to the applicant:" s4(1)(c) *Refer left column on this chart.*

Birth parent dies veto expires: "Where- (a) There is on the original entry of the birth ... any unexpired endorsement ...relating to a birth parent of that person; and (b) The Registrar-General is satisfied that that parent is dead, ... [application is processed] ... as if that endorsement had expired." s4(2)

Original birth certificate sent to Counsellor

"If the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to-(i) The appropriate office of the Department; or (ii) The approved person or organisation specified by the applicant, - as the case requires:" s5(2)(b)

Counselled adopted person given original birth certificate

"The person or organisation to whom or to which an original birth certificate is sent ... shall release it to the applicant after the applicant has received counselling:" s5(2)(c). Adoptees resident outside New Zealand, no counselling, original birth certificate is posted. s5(2)(d) All original birth certificates issued under this Act, shall omit all details relating to any birth parent ...who has an unexpired veto endorsement" s5(3)

Original birth certificate information.

If no veto endorsements, normally includes the adoptees full birth name, date and place of birth; birth mothers full name, age and birth place. Sometimes birth father's name.

What adopted persons do with information.

That's entirely up to the adoptee. If they decide to search and make contact with a birth parent or birth siblings, it's helpful to consult a social worker or adoption support group. See next page for Department of Social Welfare assistance available. Contact nearest SWD Children & Young Persons Service, Adoption Unit.

Director-General is the Director-General of Social Welfare
Registrar-General is the Registrar-General of Birth & Deaths.
191 High Street, Lower Hutt.

Birth Parents can only apply vetoes on adoptions made prior 1/3/1986 s3(1)

Adoptees adopted on or after 1/3/1986 have access of right at age 20+ to their original birth certificate.

FOR ADULT ADOPTEE ACCESS TO BIRTH RECORDS IN ENGLAND AND SCOTLAND See XXX

ADOPTED PERSON ACCESS

Original Birth Certificate s4-5

Adoption Information Manual CYPS DSW

“Adopted people aged 20 years and over can apply for copies of their original birth certificates, and, if no veto has been placed, receive them following counselling. If a veto has been placed, the adopted person receives the certificate directly, the details of the person placing the veto having been omitted. Adopted persons living permanently outside New Zealand are sent their certificates directly, and there is no counselling required.

Adult adopted person may apply to Registrar-General

4.1 If no details relating to the birth parent(s) can be included on the original birth certificate because a veto has been placed, the Registrar-General will send the birth certificate directly to the adopted person. If details about one or both birthparents can be included on the original birth certificate the Registrar-General sends the original birth certificate to the social worker or approved counsellor of the applicant’s choice, who then gives or sends it to the applicant after the applicant has received counselling. Adopted people born and adopted in New Zealand who are now resident overseas apply to the Registrar-General for their original birth certificates in the normal way. Overseas applicants are not required to have counselling before receiving original birth certificates containing details about their birth parents. In all instances birth certificates will be sent directly to them, with the address of the Wellington Unit, to whom they can apply for any additional information. Counselling will not be mandatory for people adopted after 28 February 1986 who apply for their original birth certificates.

Counselling for adult adopted people receiving original birth certificates

4.2 Only one counselling session is mandatory for adult adopted people receiving original birth certificates which contain details of one or both birthparents (s5). The adopted person asks the Registrar-General to send the birth certificate to the counsellor of choice (either Departmental or Independent), and that person gives the birth certificate to the adopted person. Any further counselling is at the request of the adopted person, and this may take place prior to the receipt of the certificate, and after it has been obtained, and other issues emerge. The Act provides for the Registrar-General to send original birth certificates which do not contain any identifying information directly to the applicant. For adopted people who feel they will need support if faced with an original birth certificate which contains no details of their birth parents.

Counselling session

4.3 This session could include: (a) Acknowledgment of the importance of the step of requesting information, and that it is possible that this may result in some temporary emotional upheaval. (b) Discussion of any concerns the person may have about the information, about making contact with birth relatives, or about effects on existing

relationships. (c) How to search, and where to go for any additional information. (d) The way to make an approach which would achieve the best results. (e) And offer of any support and guidance the person may want. The counselling may be given by telephone or face-to-face, depending on the wishes of the adopted person. The counsellor does not have the right to withhold any information that the applicant is legally entitled to, even in exceptional cases where the counsellor may be worried about possible consequences. From time to time complaints are received from adopted people, who are concerned that they, as mature adults, must receive their original birth certificates containing identifying information through a third party. It is important that all applicants understand that the counselling task is to provide as much (or as little) information and support as each individual wants, and that they are not required to participate in lengthy counselling sessions they do not want. At the same time there are no time limits, as such, on the counselling that is available. Those who wish to, may talk over a number of sessions, or return at some later points in the progress of their reunion to revisit ongoing issues and discuss new developments.”

Source Adoptions Information Manual CYPS DSW 1995.

Adopted person applicant age range peak 20-24

In contrast with overseas research, New Zealand experiences shows peak applications from the 20-24 age group, pointing to identity issues and need for younger access.

Iwanek—“The percentage of younger people searching and making contact, is significant in relation to other studies on this subject. Overseas studies suggest, that generally adopted people, predominantly female, embark on a search in their mid-30’s and usually have been married. It is suggested in these studies, that interest about family lineage and health history are particularly the concerns of female adopted people after marriage and childbirth and therefore an interest in searching for birthparents increases...The demographic data in this study does not support these assumptions. There is overwhelming evidence that when provided with the opportunity the greatest need is felt in the 20 to 25 age group. This suggests that the need to know is much greater at a younger age group and is unrelated to marriage or childbirth as such. As is often suggested, the need to know is part of identity formation. As identity issues are particularly strong in late adolescence and early adulthood, it is not surprising, in fact it seems appropriate that this particular age group has the greatest need to know. One must question, therefore, if the age of 20 should be reduced to 18 or 16, when identity issues are particularly evident for young people. Preston’s study of birthmother’s applications shows that an overwhelming number of adopted people respond to birthparent’s requests and have contact. (Preston 1989). Kennard in her study found that 94% of adopted people made personal contact with their birthparents. It could be said with confidence that the majority of adopted people and birthparents in the age group from 20 to 24 have contact with each other to a more or lesser degree.”

Source Mary Iwanek 1991 Thesis

Adopted persons applications

Iwanek—“The reasons most commonly given to counsel-

Eileen Preston. Adult Adopted Person Response to Birth Parent Applications									
Outcome of 2,000 applications by birth parents per Adult Adoption Information Act 1985 s8									
Outcome			Number		Percent of known response		Percentage of total		
Positive									
Agreed to immediate contact			966		64.35		48.30%		
Actively seeking birth parents			149		9.90%		7.45%		
Agreed to later contact			140		9.35%		7.00%		
Negative									
Did not agree to contact			115		7.65%		5.75%		
Had placed veto on contact			84		5.60%		4.20%		
Other									
Had died			35		2.35%		1.75%		
Intellectually handicapped- -no concept of adoption.			12		0.80%		0.60%		
Total known response			1501		100%				
Person not traced			330		16.5%		16.50%		
Enquiry not completed at study			169				8.45%		
Total enquiries			2000				100%.		
Note of the 1501 adoptees of known response 83.6% agreed to contact									
Adoptee Age in Years at Time of Birth Parent Application under s8									
Age	Num	Age	Num	Age	Num	Age	Num	Age	Num
20	411	30	60	40	10	50	4	60	1
21	294	31	34	41	5	51	-	61	-
22	186	32	39	42	6	52	1	62	-
23	180	33	34	43	7	53	-	63	-
24	133	34	26	44	5	54	-	64	2
25	125	35	35	45	3	55	1	65	-
26	111	36	26	46	6	56	-	66	-
27	87	37	13	47	4	57	1	67	1
28	67	38	13	48	2	58	-	68	-
29	51	39	12	49	4	59	-	69	-
12-29	1645	30-39	292	40-49	52	50-59	7	60-69	4
Note 82.25% of adopted people sought were <30 years, 96% under 40 years.									
Source. Eileen Preston. Paper presented, May 1990 Adoption Conference, Victoria. University of Wellington. cf Else <i>A Question of Adoption</i> . 1991.p.198									
Detail on 2,000 applications									
Location 1,801 from New Zealand, 151 from Australia, 48 Other overseas. Just under 10% overseas.									
Sex 1,869 birth mothers. 131 Birth fathers. Note- few birth fathers can apply under the Act, they must be named on the adoptees original birth certificate. More would apply if they could.									
Marital state 1,801 married, of which 239 had married the other birth parent of their child. 120 had never married, 79 Unknown state, mostly male. Later marriage: 11.95% of applicants who were unable to marry the other birth parent at the time of child's birth eventually married them.									
Other Children than adoptee per Applicant									
Children born		Number							
Full siblings		170							
Half siblings		612							
No children born		102							
No information		1116							
Total		2000							
Children adopted in 41, (18 had adopted children only, 23 mixed adopted/non adopted mix)									
Multiple Applications by Birth Parent									
Applications		Num of Adoptees							
1798 Single applications		1798							
86 Application for 2		172							
7 Applications for 3		21							
1 Applications for 4		4							
1 Applications for 5		5							
1893		2000							
Positive response reported from 83.6% of adoptees. 23 adoptees had died before BP application. Only 35 adoptees out of 1454 (2.4%) had not known they were adopted. 28 made contact, 2 wanted information only, 5 want no contact.									

lors and social workers for applying for original birth certificates are, in descending order of importance: (a) to gain information (b) to initiate contact with birthparents (c) to find out more about who they are (d) family ties (e) health reasons (f) curiosity. The most common questions adopted people ask during their compulsory interview are: (a) How do I search? (b) Can I do it myself? (c) What do I do if I find her? (d) How do I make contact?"

Source Mary Iwanek Thesis 1991 Ch5

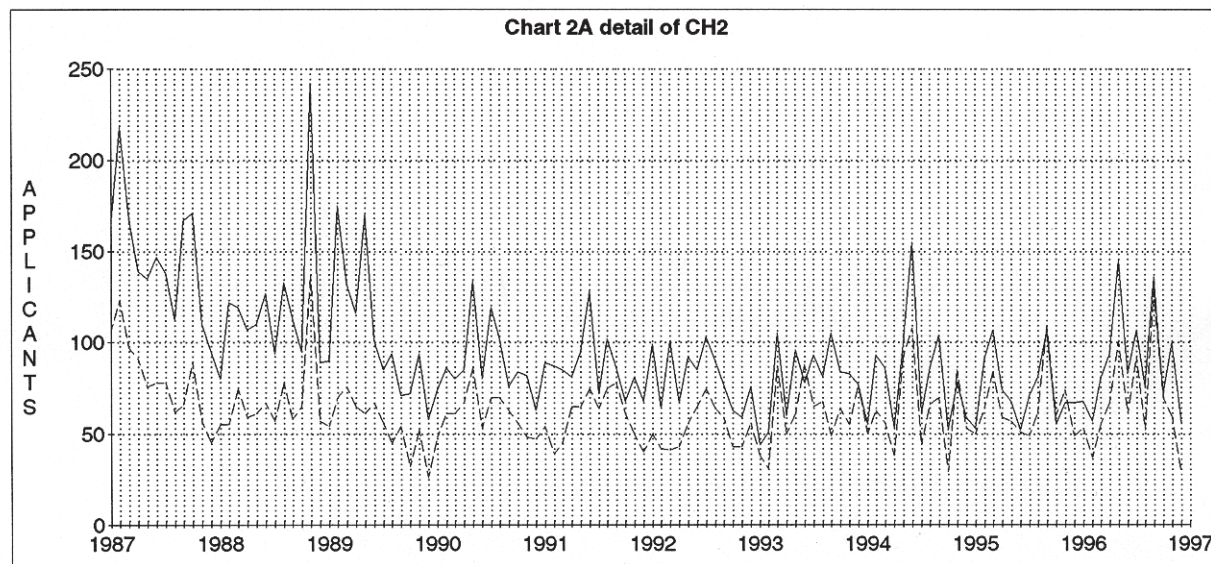
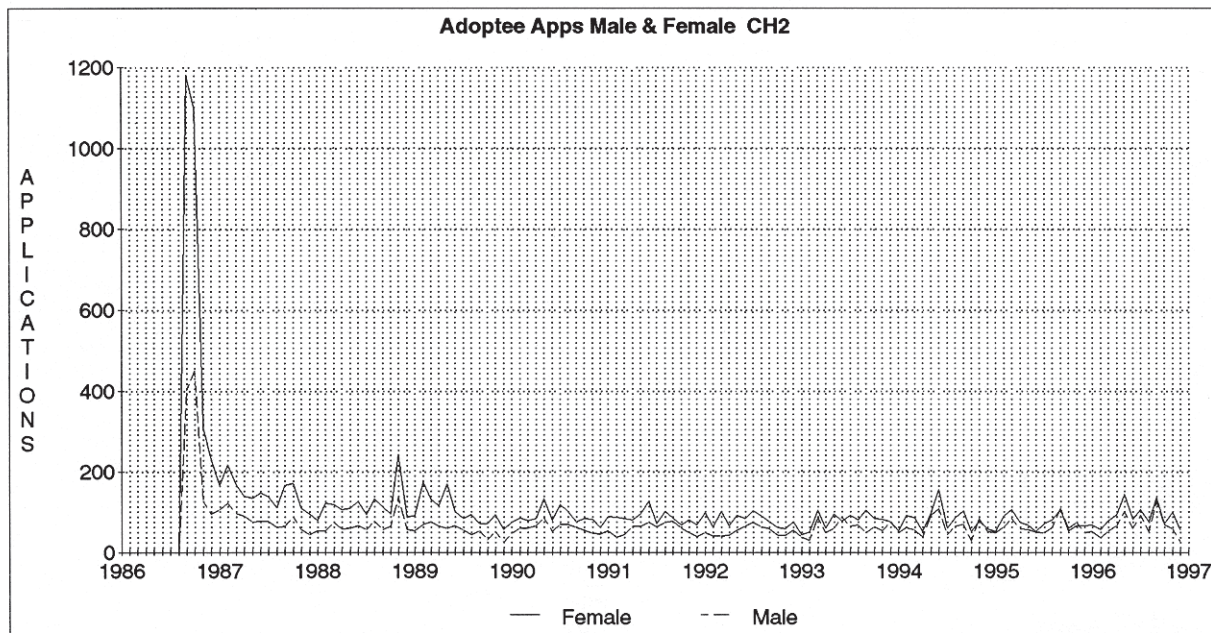
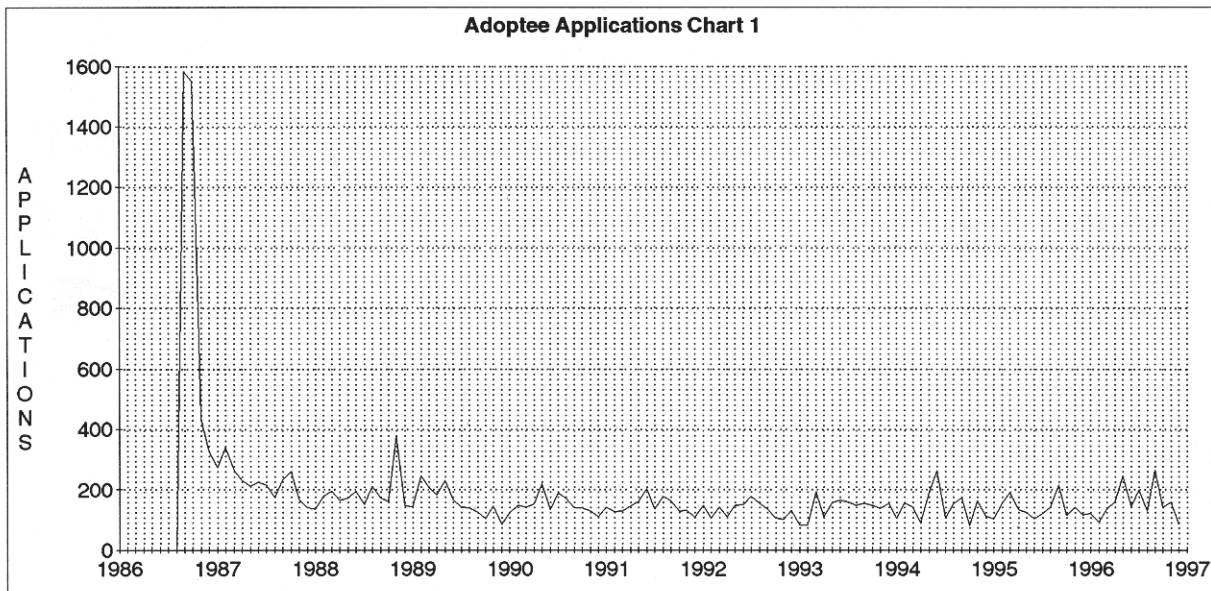
Adoptee emotions are normal and they can cope

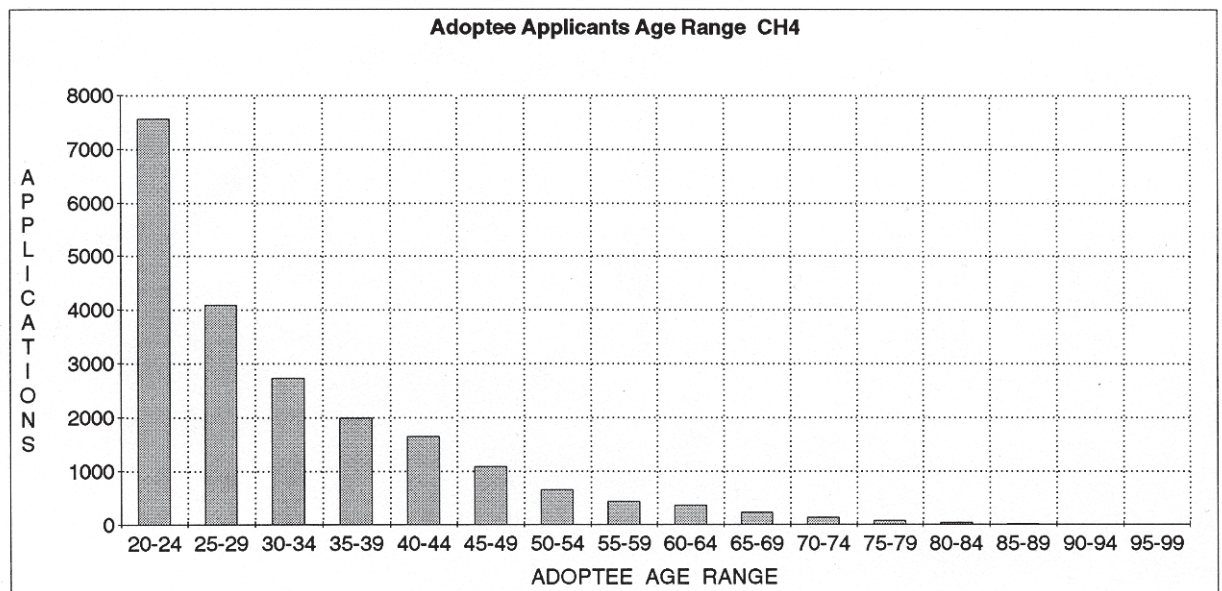
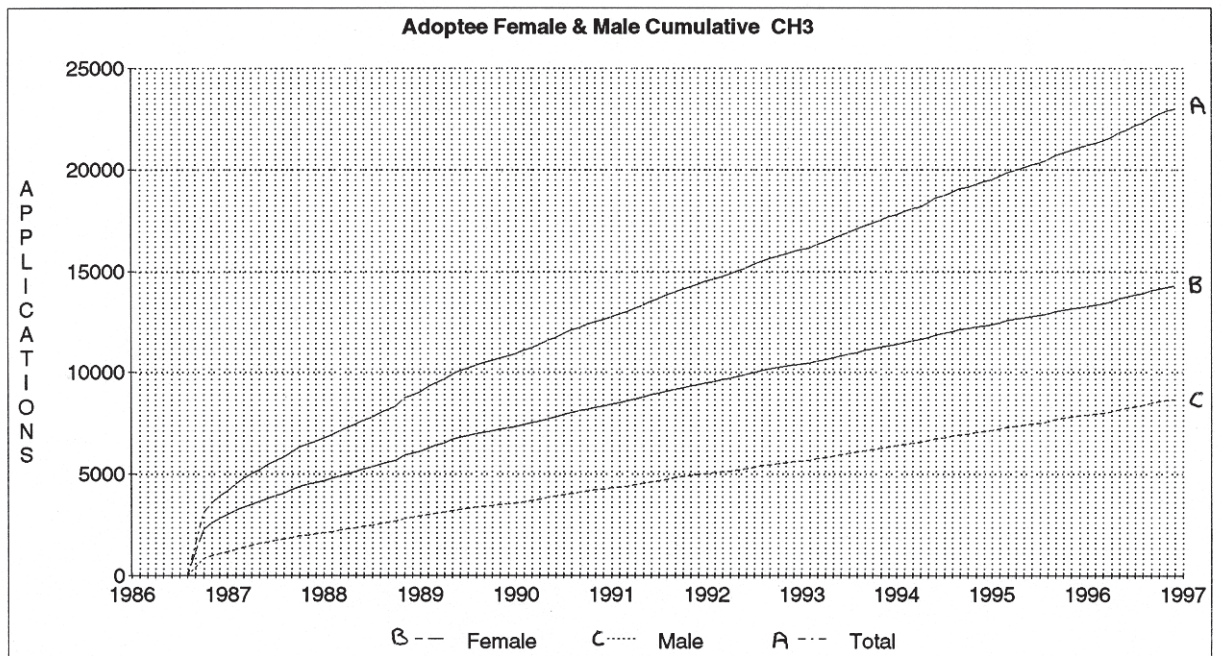
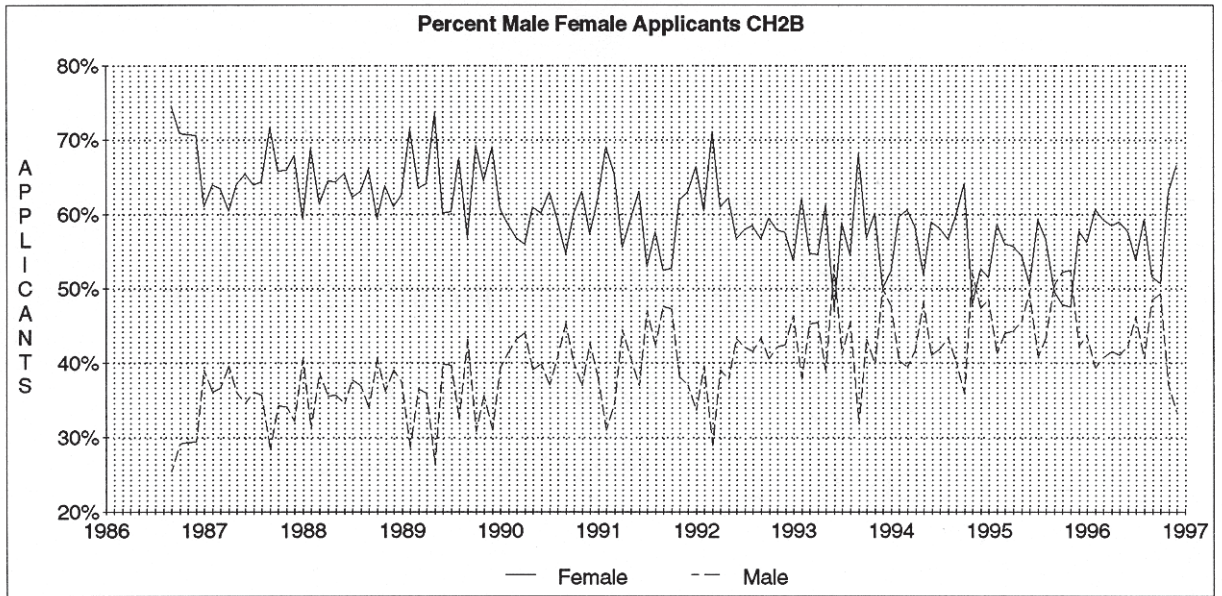
Iwanek—"It was generally agreed by counsellors, social workers and support group members who were interviewed, that the emotional trauma of searching, adoption and contacting had been blown up out of proportion. They agreed that finding out about one's origins can be an emotional time, however it is no more emotional than other life events one has to cope with. They suggested that all members of society have periods of their lives which are in upheaval in some way. People loose parents, children, husbands and wives or are perhaps affected severely by illness. In all these major life events people are expected to cope on their own and mobilise their own support networks of friends, families, ministers of religion and other people they feel are important in their lives. By imposing compul-

sory services, such as counselling and mediating, people are prevented from using and mobilising their own resources, therefore making them unnecessarily dependent on the state, as well as restricting individual freedom. A large number stressed the point that adopted people and birthparents are not clients of the social service but applicants for a birth certificate or information. There is no evidence from practice anywhere which suggests that they need to be treated any differently from any other person applying for information about themselves. This is particularly important as social workers and counsellors on the whole have very little concern about the emotional stability or maturity levels of people applying for such information." **Source** Mary Iwanek Thesis 1991 Ch5

Gender bias of applicants

Applications from females for their original birth certificates outnumber males by more than two to one. However, birth parents applications under s8 indicate that birth parent interest in reunion with their child has no gender bias. Preston, found of 2000 birth parent applications, 972 (48.6%) females, and 1,028 (51.4%) male adopted people were sought by their birth parents. Preston 1990





Age of Adopted Person requesting Copy of Original Birth Certificate for Year 1995

1995	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80-84	85-89	90-94	95-99	Total
January	37	26	12	7	6	6	4	3	0	0	1	0	0	1	0	0	103
February	57	39	13	5	11	14	6	7	0	1	0	1	1	0	0	0	155
March	67	36	26	21	11	14	7	5	1	1	0	1	1	0	0	0	190*
April	40	31	16	12	12	4	6	2	3	3	1	1	0	2	0	0	133
May	46	28	17	3	11	6	7	1	1	2	3	0	0	0	0	0	125
June	34	27	8	6	10	7	4	2	1	2	2	0	0	0	0	0	103
July	42	22	19	9	13	5	4	1	1	1	2	0	1	0	0	0	120
August	31	32	28	15	12	4	8	5	2	1	1	3	1	0	0	0	143
September	76	45	33	14	9	10	10	5	4	4	2	2	0	0	0	0	216**
October	26	25	17	12	7	11	5	2	3	3	2	0	1	1	0	0	115
November	65	29	12	4	11	6	4	1	1	4	2	2	0	0	0	0	141
December	45	18	22	9	5	7	3	2	0	2	1	1	0	1	0	0	116
Totals	566	358	223	117	118	94	68	36	17	24	17	11	4	5	0	0	1660
Percentage	34%	21.6%	13.4%	7.0%	7.1%	5.7%	4.1%	2.2%	1.0%	1.4%	1.0%	.07%	.02%	.03%	0	0	100%*

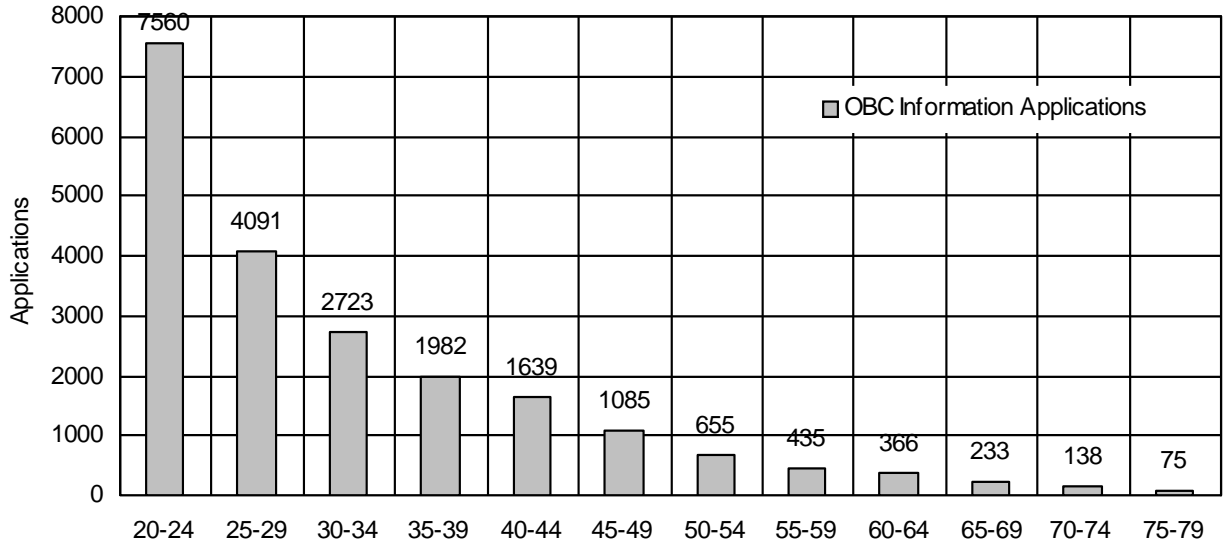
Date of birth missing for one person. ** Date of birth missing for two people.
 Source Statistical Returns Registrar-General Department of Justice. Collated KCG

Adopted Person Age at Application for Original Birth Certificate

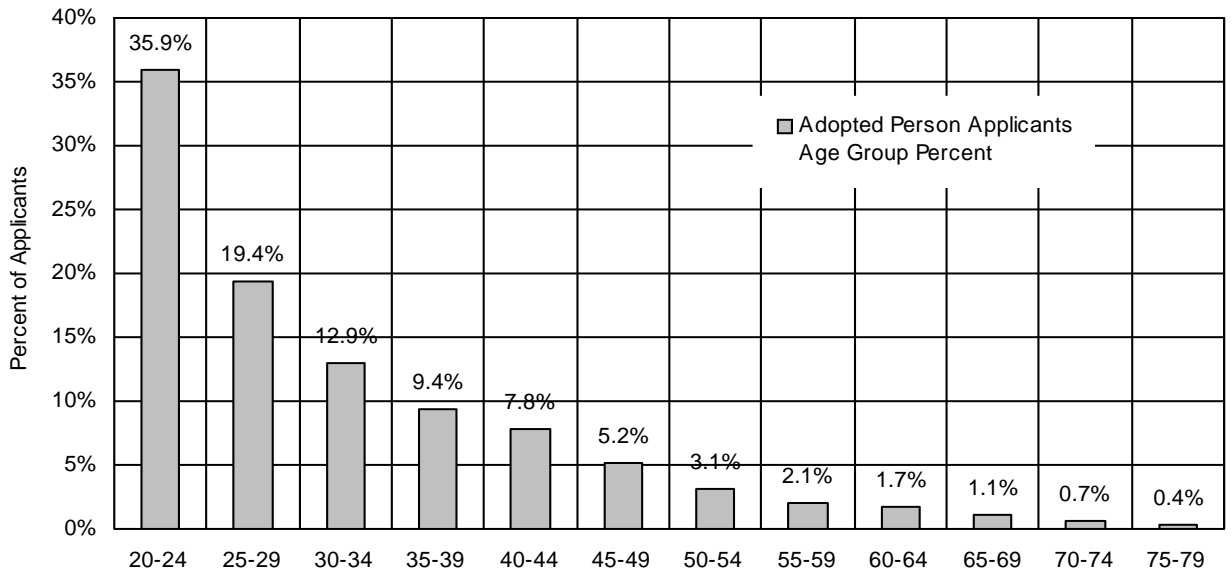
AGE	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	TOTAL
20-24	924	880	888	791	737	736	728	701	609	566	7560
25-29	726	537	408	328	346	330	317	329	412	358	4091
30-34	596	397	258	237	177	212	179	201	243	223	2723
35-39	525	296	207	159	159	137	117	127	138	117	1982
40-44	463	231	193	144	119	99	87	103	82	118	1639
45-49	196	133	97	99	107	95	68	97	99	94	1085
50-54	136	89	67	46	47	48	44	44	66	68	655
55-59	133	61	43	30	26	34	19	29	24	36	435
60-64	91	54	45	32	36	25	25	18	23	17	366
65-69	62	33	27	21	18	13	10	15	10	24	233
70-74	29	16	14	9	10	9	7	11	16	17	138
75-79	10	6	5	10	6	8	7	5	7	11	75
80-84	2	3	2	7	3	5	3	8	2	4	39
85-89	3	0	1	2	3	1	0	2	1	5	18
90-94	0	0	0	1	1	0	1	0	1	0	4
95-99	0	0	0	0	0	0	1	0	0	0	1
TOTAL	3896	2736	2255	1916	1795	1752	1613	1690	1733	1660	21044

Source Statistics Registrar-General, Department of Justice to CYPS Collated KCG

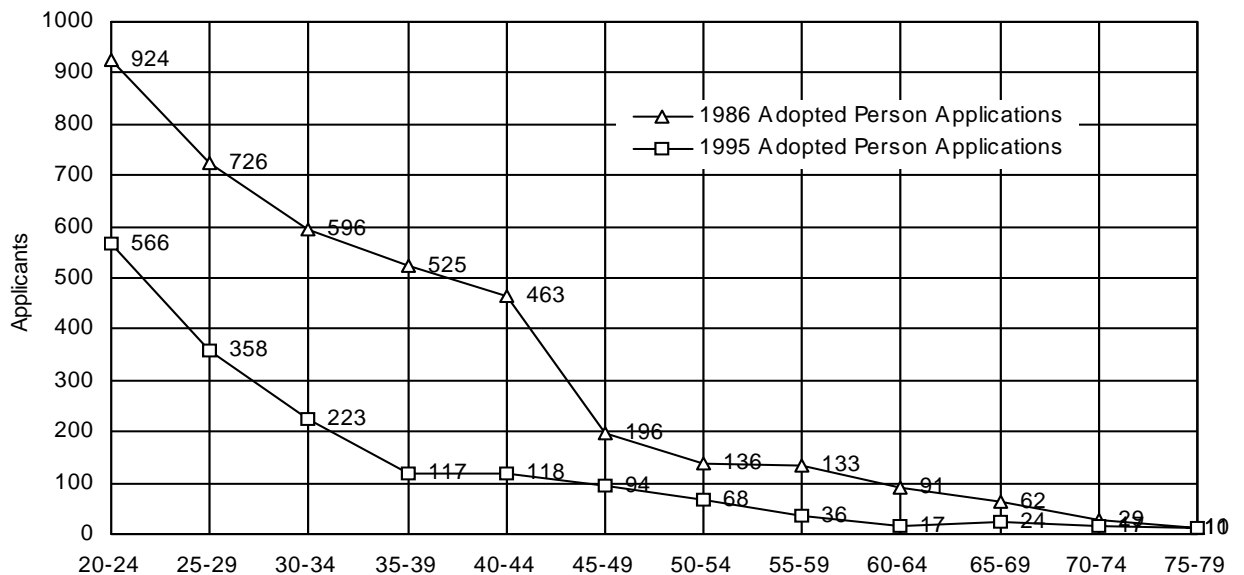
Adopted Person Applications Age Groups 1986-1995



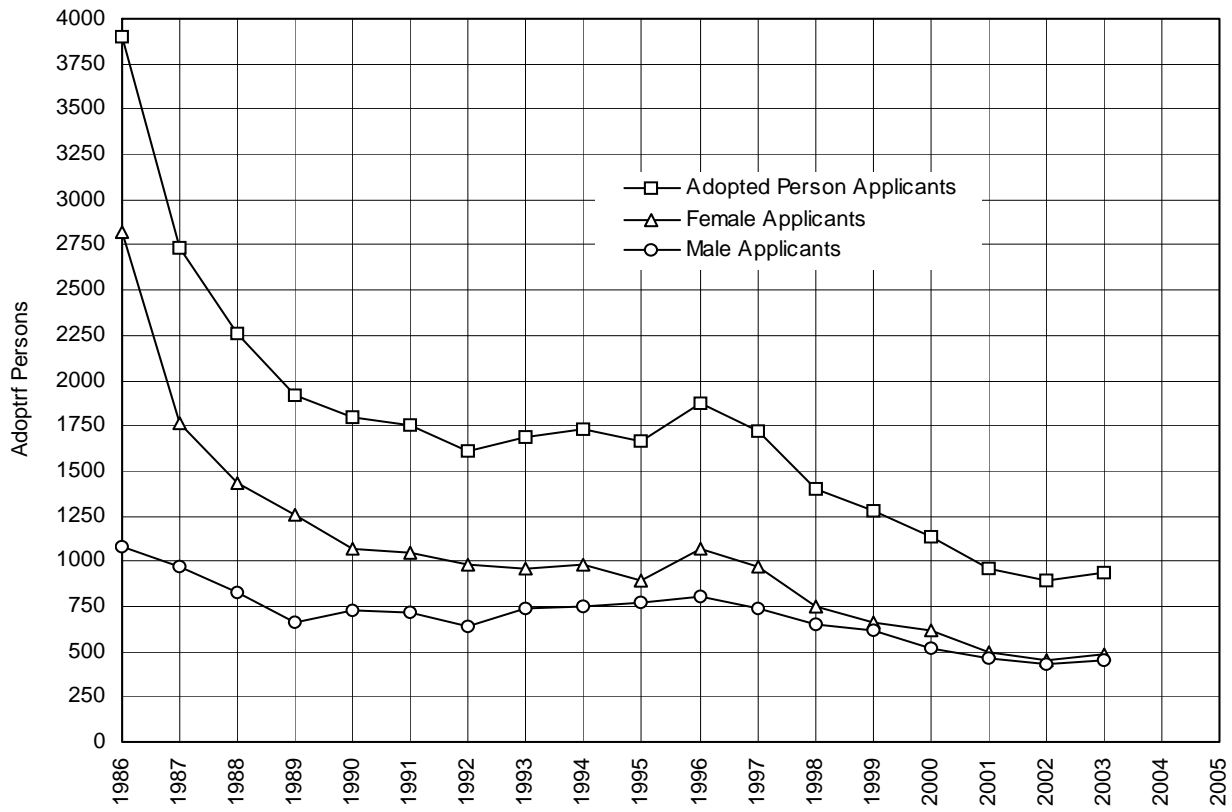
Adopted Person Applications Age Group Percent 1986-1995



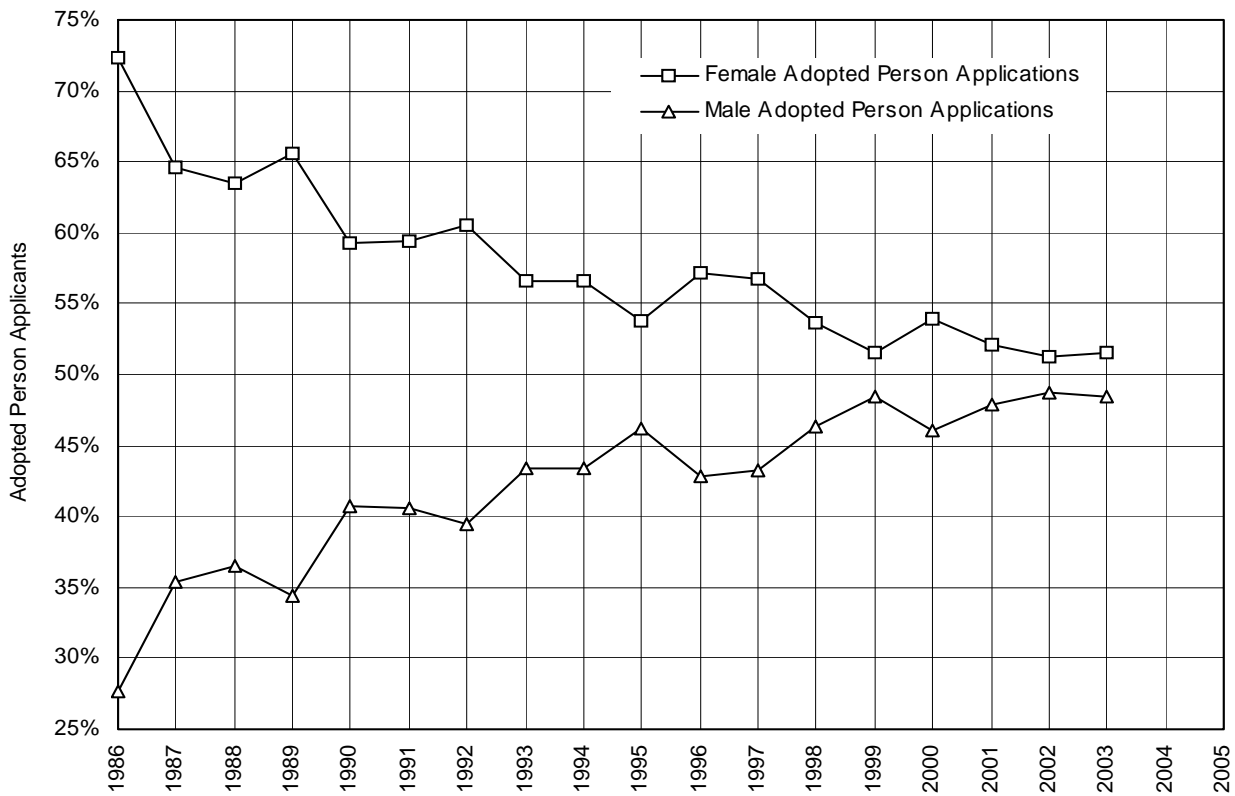
Adopted Person Applications Age 1986-1995 Comparison



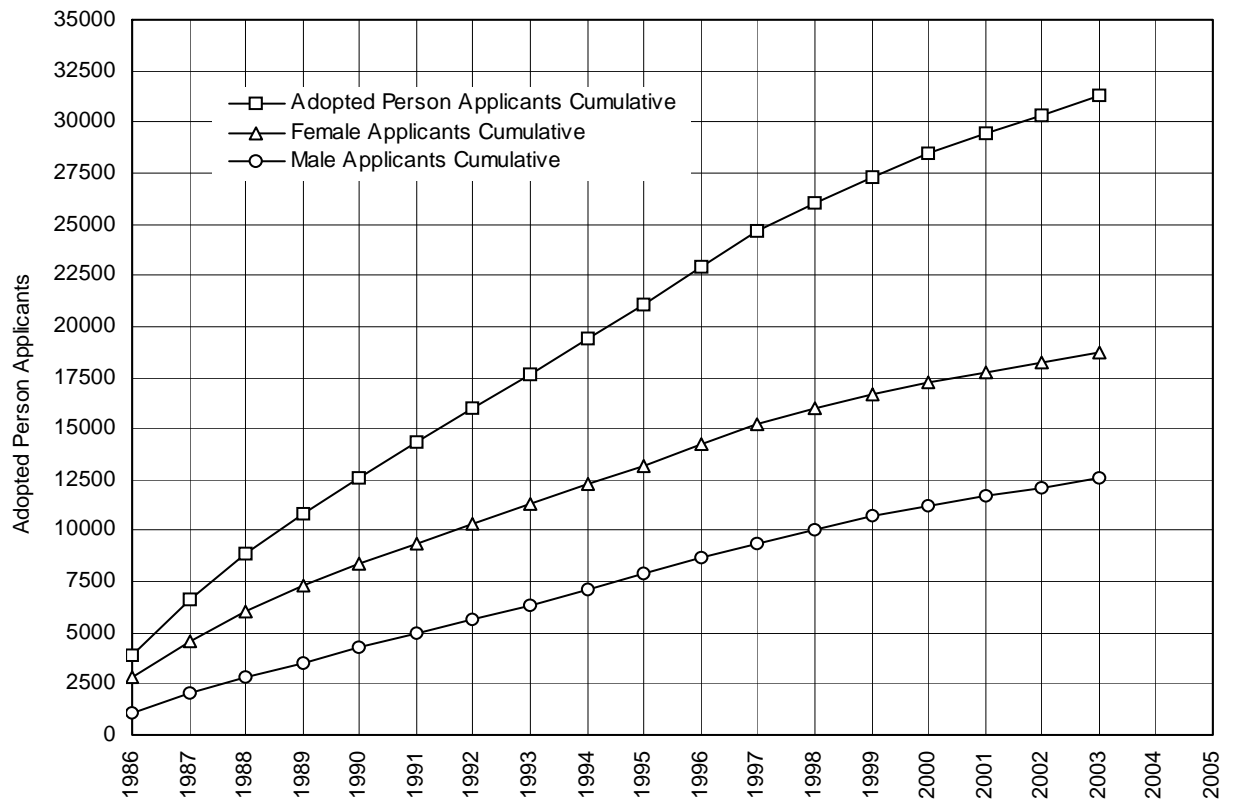
Adopted Person Applications for Original Birth Certificate



Male / Female Percentage of Adopted Person Applicants



Adopted Person Applications for Original Birth Certificate Cumulative



ADULT ADOPTED PERSON APPLICATIONS - MONTHLY RETURNS

For Original Birth Certificate per Adult Adoption Information Act 1985 Section 4-5

Access Commenced 1/9/1986

1986	Male	Female	Total
September	402	1180	1582
October	451	1099	1550
November	128	309	437
December	96	231	327
TOTAL	1077	2819	3896

1987	M	F	Total
January	107	167	274
February	123	218	341
March	97	168	265
April	91	139	230
May	76	135	211
June	78	147	225
July	78	138	216
August	62	112	174
September	66	167	233
October	89	171	260
November	57	110	167
December	45	95	140
TOTAL	969	1767	2736

1988	M	F	Total
January	55	80	135
February	55	122	177
March	75	119	194
April	59	107	166
May	61	110	171
June	67	127	194
July	57	94	151
August	78	133	211
September	58	113	171
October	65	95	160
November	137	242	379
December	57	89	146
TOTAL	824	1431	2255

1989	M	F	Total
January	54	90	144
February	70	175	245
March	76	132	208
April	65	116	181
May	61	170	231
June	67	101	168
July	56	85	141
August	45	94	139
September	54	71	125
October	32	72	104
November	52	94	146
December	26	58	84
TOTAL	658	1258	1916

1990	M	F	Total
January	48	74	122
February	61	86	147
March	61	80	141
April	67	85	152
May	86	134	220
June	53	80	133
July	70	119	189
August	70	102	172
September	63	76	139
October	56	84	140
November	48	82	130
December	47	63	110
TOTAL	730	1065	1795

The Adult Adoption Information Act 1986, Section 4-5 re Applications for Original Birth Certificates by Adult Adopted Persons age 20+ became operative 1/9/1986.

1991	Male	Female	Total
January	54	89	143
February	39	87	126
March	45	85	130
April	65	81	146
May	65	95	160
June	75	128	203
July	64	72	136
August	75	102	177
September	78	86	164
October	61	68	129
November	50	81	131
December	40	68	108
TOTAL	711	1042	1753

1992	M	F	Total
January	50	99	149
February	42	64	106
March	41	101	142
April	43	67	110
May	56	92	148
June	65	85	150
July	75	103	178
August	64	90	154
September	59	77	136
October	43	63	106
November	43	59	102
December	56	76	132
TOTAL	637	976	1613

1993	M	F	Total
January	38	44	82
February	31	51	82
March	87	105	192
April	50	60	110
May	61	96	157
June	88	78	166
July	65	93	158
August	68	81	149
September	49	105	154
October	64	84	148
November	55	83	138
December	77	77	154
TOTAL	733	957	1690

1994	M	F	Total
January	50	55	105
February	63	93	156
March	56	86	142
April	38	53	91
May	92	99	191
June	108	155	263
July	44	61	105
August	66	86	152
September	70	104	174
October	29	52	81
November	85	78	163
December	53	59	112
TOTAL	754	981	1735

1995	Male	Female	Total
January	50	53	103
February	64	91	155
March	84	107	191
April	59	74	133
May	57	68	125
June	51	52	103
July	49	71	120
August	62	81	143
September	109	107	216
October	60	55	115
November	74	67	141
December	49	67	116
TOTAL	768	893	1661

1996	M	F	Total
January	53	68	121
February	37	57	94
March	55	80	135
April	67	94	161
May	101	145	246
June	61	83	144
July	92	107	199
August	52	76	128
September	128	136	264
October	70	72	142
November	59	100	159
December	28	56	84
TOTAL	803	1074	1877

1997	M	F	Total
January	60	102	162
February	69	98	167
March	45	93	138
April	87	121	208
May	72	98	170
June	56	83	139
July	79	98	177
August	77	65	142
September	39	54	93
October	85	80	165
November	42	34	76
December	32	49	81
TOTAL	743	975	1718

1998	M	F	Total
January	48	40	88
February	61	72	133
March	71	79	150
April	57	78	135
May	56	72	128
June	29	76	105
July	61	78	139
August	43	54	97
September	57	52	109
October	50	53	103
November	58	53	111
December	57	45	102
TOTAL	648	752	1400

1999	Male	Female	Total
January	39	39	78
February	62	64	126
March	73	80	153
April	36	40	76
May	58	68	126
June	46	58	104
July	61	72	133
August	60	54	114
September	59	53	112
October	37	37	74
November	41	48	89
December	50	48	98
TOTAL	662	661	1283

2000	M	F	Total
January	33	45	78
February	59	60	119
March	54	69	123
April	30	48	78
May	64	60	124
June	39	51	90
July	39	49	88
August	48	52	100
September	44	50	94
October	42	46	88
November	38	49	87
December	33	33	66
TOTAL	523	612	1135

ADULT ADOPTED PERSON APPLICATIONS - MONTHLY RETURNS

For Original Birth Certificate per Adult Adoption Information Act 1985 Section 4-5

Year	Male	Female	Total	Year	M	F	Total
2001				2004			
January	31	20	51	January	21	23	44
February	41	55	96	February	30	32	62
March	38	53	91	March	39	28	67
April	31	42	73	April	22	31	53
May	45	46	91	May	49	44	93
June	40	42	82	June	35	29	64
July	40	38	78	July	45	34	79
August	47	72	119	August	35	35	70
September	46	42	88	September	36	30	66
October	31	50	81	October	23	27	50
November	33	23	56	November	35	30	65
December	37	18	55	December	27	32	59
TOTAL	460	501	961	TOTAL	397	375	772
2002				2005			
January	32	34	66	January			
February	36	45	81	February			
March	42**	43**	85	March			
April	36**	37**	73	April			
May	38**	38**	76**	May			
June	31**	32**	63	June			
July	37	41	78	July			
August	36	32	68	August			
September	45	59	104	September			
October	37	29	66	October			
November	28	34	62	November			
December	36	33	69	December			
TOTAL	434	457	891	TOTAL			
2003				2006			
January	37	33	70	January			
February	36	35	71	February			
March	33	32	65	March			
April	32	35	67	April			
May	36**	37**	73	May			
June	31	49	80	June			
July	41	34	75	July			
August	39	31	70	August			
September	61**	62**	123	September			
October	45	62	107	October			
November	35	43	78	November			
December	25	28	53	December			
TOTAL	451	481	932	TOTAL			

STATISTICS UPDATE

31st December 2004

Total Applications for Identifying information—

ADOPTED PERSONS 32,019

BIRTH PARENTS 8,825

TOTAL APPLICANTS 40,720

Notes

* Year 2004 stats* only for part year. [January- October]

** Estimates only- Statistics not available, RG has supplied only the total for month with no breakdown into male and female applicants.

ADULT ADOPTED PERSON APPLICATIONS - ANNUAL RETURNS

YEAR	Adopted Person Applications	Adopted Person Applications	Adopted Person Applications	Adopted Person Applications	Adopted Person Applications	Adopted Person Applications	Adopted Person Female Percent	Adopted Person Male Percent	Birth Parent Plus Adopted Person Apps Cumulative
	Male	Female	Total	Cumulative Male	Cumulative Female	Cumulative Total	Per Year	Per Year	
1986	1077	2819	3896	1077	2819	3896	72.4%	27.6%	4535
1987	969	1767	2736	2046	4586	6632	64.6%	35.4%	7939
1988	824	1431	2255	2870	6017	8887	63.5%	36.5%	10866
1989	658	1258	1916	3528	7275	10803	65.7%	34.3%	13369
1990	730	1065	1795	4258	8340	12598	59.3%	40.7%	15686
1991	711	1042	1753	4969	9382	14351	59.4%	40.6%	17855
1992	637	976	1613	5606	10358	15964	60.5%	39.5%	19664
1993	733	957	1690	6339	11315	17654	56.6%	43.4%	21892
1994	754	981	1735	7093	12296	19389	56.5%	43.5%	24346
1995	768	893	1661	7861	13189	21050	53.8%	46.2%	26580
1996	803	1074	1877	8664	14263	22927	57.2%	42.8%	29092
1997	743	975	1718	9407	15238	24645	56.8%	43.2%	31365
1998	648	752	1400	10055	15990	26045	53.7%	46.3%	33206
1999	622	661	1283	10677	16651	27328	51.5%	48.5%	34858
2000	523	612	1135	11200	17263	28463	53.9%	46.1%	36312
2001	460	501	961	11660	17764	29424	52.1%	47.9%	37527
2002	434	457	891	12094	18221	30315	51.3%	48.7%	38706
2003	451	481	932	12545	18702	31247	51.6%	48.4%	39897
2004	397	375	772	12942	19077	32019	52.5%	47.5%	40313
2005									
TOTALS	12,942	19,077	32,019	12,942	19,077	32,019			40,720

APPLICATIONS FOR ADOPTION INFORMATION

Under Adult Adoption Information Act 1985

PROCESSING OF REGISTRAR GENERALS STATISTICAL RETURNS 2004

A Monthly Return Form is sent to the CYF Adoption Information and Services Unit Re Applications by Adopted Adult persons.

The Monthly face page gives actual number of applications received by RG for the month.

This is followed by details of male and female applications processed that month...

Up to early 2004 the application received and number processed during the month approx equated.

However: From June 2004 onwards there have been some wide fluctuations between Applications received and processed for the month.

This has created difficulties with the spreadsheet reconciliations

To maintain consistency I remain using the RG Applications received for each month, and then using the male/female % of applications processed for that month as a basis to recalculate numbers to correspond with the received monthly applications. This will give a more accurate picture of the returns received for each month re male/female breakdown. The Annual returns remain the same,

JUNE 2004

OBC Applications received by RG = 64
 Application processed by RG = 74 (Male 41 55% Female 33 45% = 74 100%)
 Applying these % to June received total of 64 Yields (Male 35 Female 29 = Total 64)

JULY 2004

OBC Applications received by RG = 79
 Application processed by RG = 47 (Male 27 57% Female 20 43% = 47 100%)
 Applying these % to June received total of 79 Yields (Male 45 Female 34 = Total 79)

AUGUST 2004

OBC Applications received by RG = 70
 Application processed by RG = 101 (Male 50 49.5% Female 50.5 45% = 101 100%)
 Applying these % to June received total of 70 Yields (Male 35 Female 35 = Total 70)

SEPTEMBER 2004

OBC Applications received by RG = 66
 Application processed by RG = 46 (Male 24 55% Female 22 45% = 46 100%)
 Applying these % to June received total of 66 Yields (Male 36 Female 30 = Total 66)

OCTOBER 2004

OBC Applications received by RG = 50
 Application processed by RG = 74 (Male 41 55% Female 33 45% = 74 100%)
 Applying these % to June received total of 50 Yields (Male 28 Female 22 = Total 50)

NOVEMBER 2004

OBC Applications received by RG =
 Application processed by RG = (Male % Female % = 100%)
 Applying these % to June received total of Yields (Male Female = Total)

DECEMBER 2004

OBC Applications received by RG =
 Application processed by RG = (Male % Female % = 100%)
 Applying these % to June received total of Yields (Male Female = Total)

Information for adopted people***CYF Website—Your rights***

If you are an adopted adult, the Adult Information Act 1985 gives you the right to information about the adoption. The Act recognises that people in the adoption process may feel more complete when they have knowledge of their origins and each other. The Act also gives you the right to maintain your privacy. You can choose how much information other people will be able to obtain about you.

Your birth certificate

Once you turn 20, you can write to the Registrar-General of Births, Deaths and Marriage (PO BOX 10 526, Wellington) to get a copy of your original birth certificate (section 4 of the Act). Further information on this process is available from the registrar general Website. You must give the Registrar-General: • your full name • your place of birth your date of birth • the full name(s) of your adoptive parents • your address • the fee needed to obtain the birth certificate.

Counselling

If details of one or both of your birth parents appear on the original birth certificate, you will be sent a list of counsellors and agencies before you see your certificate. You must choose a name or an agency from the list and tell the Registrar-General.

The Registrar-General will then send your birth certificate to the counsellor or agency you have chosen.

The counsellor or agency will contact you and arrange for you to receive the birth certificate (section 5 of the Act).

A counsellor is involved to give you information and support, to help make decisions that are right for you. The counsellor is not there to try and make you change your mind about a decision you have made. The counsellor does not have the right to withhold information you are legally entitled to.

Searching for or contacting your birthparent(s)

Once you have your original birth certificate, you may wish to search for and contact your birthparent(s). You can discuss with your counsellor how to search and how to make a sensitive approach. You may want to contact your birthparent(s) yourself, or you may wish to use someone as a mediator. A social worker can be asked to mediate (section 10 of the Act).

Updating your original birth certificate

If the name of one or both of your birth parents is not recorded on your original birth registration, but you can find out who they are, their details can be added to the registration entry. This is usually done with the consent of the particular parent. Contact the Central Registry of Births, Deaths and Marriages for further information about this process.

Information from Child, Youth and Family records

If you want to know whether Child, Youth and Family holds any information about your adoption, you should call or write to your local Child, Youth and Family branch and supply a copy of your original birth certificate (section 9 of the Act).

If a veto has been placed

If there are no details of your birth parent(s) on the birth certificate, either the name has not been registered or the birth parent(s) have placed a veto.

The birth certificate will show your place of birth, your date of birth, your sex, and your original first names if they were put on the register. It will be sent to you directly with a list of counsellors. You may want to discuss the situation with one of them.

You can also write to: The Adoption Information and Services Unit Child, Youth and Family Private Bag 6901 Marion Square Wellington

Ask if the person placing the veto has left a letter of explanation for you, and if non-identifying information is available. A veto is in place for ten years, but can be lifted at any time. A veto expires if the person who places it dies, but your original birth registration entry may not be automatically updated to remove the veto.

You can ask the Registrar-General at any stage to verify if either or both of your birthparents' deaths are recorded in New Zealand. A fee applies for this service. Otherwise, if you know that your birthparents are dead, please advise the Registrar-General of this fact when applying for your original birth certificate.

Placing a veto on the birth registration

If you are adopted and you do not wish to have contact with your birth parents, you can, once you turn 19, write to the Registrar-General to say that you don't want information that would identify you to be given to your birth parents (section 7 of the Act). The veto is in force for 10 years, but you can change your mind and reverse the veto at any time.

When you write to the Registrar-General to place a veto you must give your full adopted name and your date of birth. The Registrar-General will send you a list of counsellors and agencies. Talking to a counsellor may help. However, you don't need to see a counsellor if you don't want to.

If you decide to put a veto on identifying information about yourself, please consider leaving with Child, Youth and Family some other information or a letter explaining the reasons for your veto. This will make it much easier for the other person to accept and understand the situation.

A veto does not mean you will never be found, it just means that anyone trying to trace you won't be able to get identifying information from the Registrar-General or from Child, Youth and Family.

If you live outside New Zealand

If you are an adopted adult and live outside New Zealand, you have the same rights, but counselling is not a necessary step. Your birth certificate will be sent straight to you on request, along with the address of Child, Youth and Family.

If you were adopted in another country

Child, Youth and Family is the NZ affiliated bureau of International Social Service. This organisation can help in tracing, contact and mediation across countries. Contact your local AISU office if you would like to find out more

ADOPTED PERSON APPLICATIONS

XXX

about this service. The Adoption links section also contains links to adult adoption information contacts in Great Britain.

How do I contact AISU for more information?

You can contact an AISU office directly - click [one Web page] to see a full list of details.

Alternatively, click here to email the National Office AISU team. Remember to give as much detail as possible in your message, and state your location and contact details so that the appropriate team can help you.

Source: www.cyf.govt.nz/view.cfm?pid=78 As at June 2004

CYF Adoption office locations

Kamo (Whangarei) AISU Child, Youth and Family PO Box 4222, 5 Three Mile Bush Road Karno

Northern (Auckland) AISU Child, Youth and Family Ground Floor 490 Richmond Road cnr Richmond Road and Tutanekei Street Private Bag 78 600 Auckland 2

Hamilton AISU Child, Youth and Family Ground Floor Anglesea Tower Cnr Anglesea and Collingwood Streets Private Bag 3119 Hamilton

Paeroa AISU Child, Youth and Family cnr Te Aroha and Rotokohu Roads PO Box 63 Paeroa

Rotorua AISU Child, Youth and Family 1207 Pukuatua Street PO Box 1845 Rotorua

Gisborne AISU Child, Youth and Family Tangata Rite Building Lowe Street PO Box 554 Gisborne

Hawke's Bay AISU Child, Youth and Family Vautier House cnr Vautier and Dalton Streets PO Box 144

Napier New Plymouth AISU Child, Youth and Family Tasman Towers Gill Street PO Box 4043 New Plymouth

Whanganui AISU Child, Youth and Family 357 Victoria Avenue PO Box 7148 Whanganui

Palmerston North AISU Child, Youth and Family 315 Church Street PO Box 4163 Palmerston North

Masterton AISU Child, Youth and Family 49 - 51 Lincoln Road PO Box 227 Masterton

Wellington AISU Child, Youth and Family 9th Floor Grand Central Building 6-86 Manners Street - entrance off Manners Mall Private Bag 6901 Marion Square Wellington

National Manager The National Manager Adoption Information and Services The Charles Fergusson Building Level 1, West Block Ballantrae Place PO Box 2620 Wellington

Nelson/Marlborough AISU Child, Youth and Family Floor 2, Munro State Building 186 Bridge Street Nelson

Christchurch AISU Child, Youth and Family Torrens House 195 Hereford Street PO Box 940 Christchurch 8001

Timaru AISU Child, Youth and Family Aoraki House Strathallan Street Private Bag 901 Timaru

Dunedin AISU Child, Youth and Family 40 Elliot Street Anderson Bay Private Bag 1906 Dunedin

Invercargill AISU Child, Youth and Family Henderson House 93 Kelvin Street Invercargill

WebAccess: www.cyf.govt.nz/view.cfm/PID=75&cfid=
Email the adoption team To contact the adoption team at the National Office AISU, click here. [on website]
Please give as many details as possible in your email, and let them know your general location and contact details so that the appropriate team can help you as soon as possible.

Source: www.cyf.govt.nz/view.cfm?pid=147 As at June 2004

Adult Adopted Persons rights to original birth certificate

Trapski— K.5. 27/7/99. An adoptee aged 20 years or more (definition of “adult” in s 2 Adult Adoption Information Act 1985) may apply in writing to the Registrar-General at the Office of the Registrar-General of Births and Deaths, PO Box 31-115, Lower Hutt, for a copy of his or her original birth certificate: s 4(1). The fee for a copy birth certificate is currently \$21: Births, Deaths and Marriages Registration (Fees) Amendment Regulations 1998, SR 1998/163. For the suggested form of application, see Annexure A9. The Registrar-General will respond according to the circumstances:

(a) If it does not appear from the records that the applicant is adopted, written notification of this will be sent to the applicant: s 4(1)(a).

(b) If the records show the applicant was adopted before 1 March 1986 and there is an unexpired endorsement (veto) from the only parent whose details appear on the birth register, or, where the details of both parents appear, there are unexpired endorsements from both parents, then the Registrar-General will inform the applicant of the existence, effect, and date of “pity of the endorsement(s): ss 4(1)(b) and 5(2). The Registrar-General will also send the applicant a copy of the original birth certificate with all details of the birth parents omitted: s 5(1). The certificate will show the applicant’s date and place of birth, sex, and original first names if any were registered: Birthlink, Adult Adoption Information Act 1985: Your Rights. A list of counsellors will also be sent to the applicant to enable them to contact a counsellor should they wish to discuss the situation.

(c) If the records show the applicant was adopted before 1 March 1986, and there are no unexpired endorsements, or an unexpired endorsement from only one of two named birth parents on the birth entry, then the Registrar-General shall notify the applicant in writing that an original birth certificate will be given only if the applicant has received counselling: s 4(1)(c) and 5(2). The Registrar General will send a list of counsellors in the area to the applicant. The applicant should then notify the Registrar-General which counsellor he or she wishes to consult. A copy of the original birth certificate is sent to the chosen counsellor. The counsellor will approach the applicant and, after counselling, must give the birth certificate to the applicant: s 4(1)(c). The counselling requirement does not apply to applicants living outside New Zealand: s 5(2)(a)(ii).

If an adoptee has identified and traced his or her birth parents, the Birthlink leaflet, Adult Adoption information Act 1985: Your Rights, recommends a mediator be used to arrange a meeting between the adoptee and birth parent. The Department of Social Welfare, an adoption counsellor, or a voluntary organisation may provide a mediator. See s10.

The Adult Adoption Information Act 1985 gives no access to adoption information to adoptees under the age of 20 years. Many such persons have an interest in gaining information about their birth parents but the Act discriminates against them.

The Human Rights Act 1993 prohibits discrimination against any person on the grounds of their age, but does not extend its protection to under-16-year-olds (s 21(1)(i)) and, in relation to age discrimination, does not bind the Crown. The Law Commission, as part of a current review of adoption legislation, is required to consider at what stage an adopted child should be entitled to information about his or her identity: see A-10.04.

Counselling of adult adopted persons

K.6: If an adult adoptee who has requested his or her birth certificate notifies the Registrar-General in writing that he or she desires counselling, the Registrar-General will send an original birth certificate (s 5(2)(b) Adult Adoption Information Act 1985) to the appropriate office of the Department of Social Welfare (s 2(2)(b)(i)) or to the approved person or organisation specified by the applicant (s 5(2)(b)(h)). After the applicant has received counselling the original birth certificate will be released to the applicant: s 5(2)(c).

In practice, counsellors do not impose counselling on a reluctant applicant. Some counsellors immediately hand over the original birth certificate and then offer information or counselling.

The original birth certificate will omit all details relating to any birth parent in respect of whom there is an unexpired endorsement on the birth register if the Registrar-General is not satisfied that parent is dead: s 5(3).

Adult adopted persons residing outside New Zealand

K-7: The counselling requirement does not apply to adoptees who live outside New Zealand. If it appears to the Registrar-General that the applicant is permanently resident outside New Zealand, the original birth certificate will be sent directly to the applicant. The applicant will also be sent the address of the Director-General of Social Welfare: s 5(2)(d) Adult Adoption Information Act 1985.

Adoptions after 28 February 1986

K.8 : When an application for the original birth certificate is received from an adult adoptee adopted after 28 February 1986, the Registrar-General must notify the applicant in writing of counselling available in the area where the applicant lives: s 6(a)(i) Adult Adoption Information Act 1985. If, within 28 days, the applicant gives written notification of a desire to receive counselling, the original birth certificate is sent to the appropriate office of the Department of Social Welfare, or to an approved person or organisation specified by the applicant, and the applicant can uplift it at any reasonable time: s 6(a)(ii) and (d). If the applicant notifies the Registrar-General that he or she does not desire counselling, or fails to respond to the Registrar-General’s notice, the applicant will be notified that the original birth certificate is held on the applicant’s behalf: s 6(b). The applicant can obtain the original birth certificate by asking the Registrar-General in writing: s 6(c).

Access to records for adopted person under overseas orders

K.9: Most Commonwealth countries provide for access to adoption records and information by adult adopted per-

sons. For useful information on this topic, contact the Adult Adoption Information and Services Unit, Department of Social Welfare, Private Bag 30-480, Lower Hutt. See Annexure A10.

Veto on birth parent contact by adopted person

K.10: An adoptee aged 19 years or more may at any time ask the Registrar-General to have the original birth entry endorsed to the effect that he or she does not desire any contact with one or both of their birth parents: s 7(1) Adult Adoption Information Act 1985. For a suggested letter of request for no contact, see Annexure All.

On receiving the request, the Registrar-General must inform the adoptee of counselling available in the area in which the adoptee lives: s 7(2)(a). The adoptee must then tell the Registrar-General whether he or she desires counselling: s 7(2)(b). If so, the Registrar-General will take no further action until the adoptee asks that the original request be proceeded with: s 7(2)(c). If the adoptee indicates that counselling is not desired or asks the Registrar-General to proceed with the request, a "no contact" endorsement will be noted on the birth entry: s 7(2)(d).

The endorsement expires 10 years after the date it is made: s 7(4). However, the adoptee can request that the endorsement be removed and it will then expire: s 7(5). A fresh endorsement can be registered before an existing endorsement has expired: s 7(6).

An adoptee may wish to write to the Department of Social Welfare giving reasons for requesting no contact with the birth parent(s). This letter may be passed on to the birth parent(s) and may help them to come to terms with the situation. An adoptee may at the same time choose to provide the department with non-identifying information to be supplied on request to a birth parent: Birthlink, Adult Adoption Information Act 1985: Your Rights.

K.12 Access by adult adopted persons to identifying information

Any adult adoptee may apply to the Director-General for identifying information relating to one or both birth parents: s 9(1) Adult Adoption Information Act 1985. The adoptee should apply to the local Adoption Information and Services Unit, details of which can be found in Annexure 13 of the Appendices. The application must be accompanied by the applicant's original birth certificate: s 9(2). "Original birth certificate" is defined as including a certificate from which details of the birth parents have been omitted: s 2.

The Director-General must disclose to the applicant all available information likely to enable the applicant to ascertain the name and address of any birth parent who has died of whose details appear in the original birth certificate: s 9(3). Details of the father of a non-marital child will not be available unless the father's name appears on (lie original birth certificate: s 15 Births, Deaths, and Marriages Registration Act 1995. The Director-General shall also inform the applicant of the effect of s 10 of the 1985 Act as to the availability of assistance from the Department of Social Welfare in approaching the birth parent(s): s 9(3) Adult Adoption Information Act 1985. If the Director-General does not know the name and address of the birth

parent, a social worker shall try to ascertain identifying information about the birth parent(s) if the

Director-General considers such information can probably be obtained without undue effort: s 9(4)(c) Adult Adoption Information Act 1985.

The "undue effort" test is somewhat unusual and could allow overworked social workers to opt out of this type of work. "Undue" is defined in the Shorter Oxford English Dictionary as "not appropriate" or "going beyond what is appropriate, warranted or natural; excessive". It is difficult to ascertain how the Director-General determines whether the likely effort is "undue". Factors may include the pressure of other work, the priorities of a particular office, or the degree of importance to the applicant.

K.13 Access to non-identifying information

Although there is no statutory right to non-identifying information, it is the policy of the Department of Social Welfare to meet reasonable requests for such information, and it has developed guidelines which stress the value of such information being made available where possible: Adoptions Local Placements Manual (1995), 1.2.1. Generally, an adopted person can obtain information about his or her birth parents' and family members' physical characteristics, general health, education, ethnic origins, and general family circumstances: 1.3.2. Non-identifying information may be provided to an adoptee under the age of 20 years, and requests may also be made by a birth parent. Requests from a birth parent may be for information about the occupation, race, age, or nationality of the adoptive parents, for details of any other natural or adopted children the adoptive parents may have, or for information about the education, health, progress, physical appearance, or career choice of their child. Alternatively, requests may be from adoptive parents seeking information about the birth mother so they can answer questions from their adopted child: s 10(3). Adopted people may seek details of their birth parent(s) provided they already have their name(s) and address(es): s 10(1).

For an interesting account, see P Toynbee, *Lost Children: The Story of Adopted Children Searching for their Mothers*, London, Hutchinson's, 1985. For a detailed treatment of the topic, see K Griffith, *The Right to Know Who You Are: Reform of Adoption Law with Honesty, Openness and Integrity*, ch 11.

People seeking non-identifying information should make a written request to the Adult Adoption and Information Services Unit, at the office of the Department of Child, Youth and Family Services where the information is likely to be held, or, in cases of uncertainty, to head office in Wellington. The request to the department may be declined: s 10(4).

Source Trapski's Family Law Vol. 5. 'Adoption' pp379-380 K.5-13. (24/3/00) Brooker's

BIRTH PARENT ACCESS TO ADOPTED PERSON INFORMATION

Adult Adoption Information Act 1985 s8

Application and verification

“(1) Any person may make a written application to the Director-General for identifying information relating to an adult adopted person whose birth parent the applicant is. (2) Where the Director-General is satisfied that an applicant under subsection (1) of this section is a birth parent of the adult adopted person to whom the information sought relates, the following provisions shall apply:” s8(1),(2)

If adopted person is dead

“Where the Director-General is satisfied that the adopted person is dead, the Director-General may disclose to the applicant such information as the Director-General thinks fit relating to that person, that person’s circumstances at the time of that person’s death, and the circumstances of that persons death.” s8(2)(a)

Veto check

“Where the Director-General is not satisfied that the adopted person concerned is dead, the Director-General shall enquire of the Registrar-General if there is on the original entry of the birth of that person any unexpired endorsement under section 7(2) of this Act relating to the applicant; and in that case the Registrar-General shall inform the Director-General whether or not there is such an entry and, if so, when it (of if more than one the most recent of them) will expire:” 8(2)(b). If no unexpired veto proceed next step.

Unexpired veto

“Where the Registrar-General informs the Director-General that there is such an endorsement on that entry, the Director-General shall give the applicant the information given to the Director-General under paragraph (b) of this subsection, and shall inform the applicant of the effect of the endorsement concerned:” s8(2)(c) *No further action is taken.*

Search for adopted person

(d)“Where the Registrar-General informs the Director-General that there is no such endorsement on that entry- (i) If the Director-General does not know the name and address of the adopted person concerned but, in the Director-General’s opinion, it is probable that a social worker can ascertain identifying information relating to that person without undue effort, the Director-General shall cause a social worker to attempt to do so.” 8(2)(d)(i)

Summary. Any birth parent may apply for identifying information concerning a child they gave up for adoption.

Five conditions

- 1 Must be satisfactory evidence that the applicant is a birth parent of the adoptee. s8(2)
- 2 There must be no unexpired endorsement (veto) placed on the original birth entry by the adoptee. s8(2)
- 3 The adoptee must now be an adult. Age 20+. s8(1)
- 4 Adoptee is to be contacted and consent before any identifying information is released to birth parent s8(2)(d)(iii)
- 5 Must pay the prescribed fees. s13

Contact for consent

(ii) “If the Director-General knows the name and address of the adopted person concerned and, in the Director-Generals opinion, it would be possible for a social workers to contact that person without undue effort, the Director-General shall cause a social worker to attempt to do so and to ascertain whether or not that person is willing to have that person’s name and address communicated to the applicant:” 8(2)(d)(ii)

If no adopted person consent

“The name and address of the adopted person concerned shall not be communicated to the applicant unless that person has indicated to that social worker that that person is willing for them so to be communicated:” 8(2)(d)(iii) *No further action is taken other than notify applicant.*

On consent information sent

“If the adopted person concerned has indicated to that social worker that that person is willing to have that person’s name and address communicated to the applicant, the Director-General shall communicate them to the applicant and inform both the adopted person and the applicant of the effect of section 10.” 8(2)(d)(iv) *s10 lists Departmental assistance.*

The Act does not in any way restrict release of any non-identifying information.

“Act not to effect disclosure of non-identifying information- Nothing in this Act shall effect the disclosure to any person of any information relating to any other person that is not, in relation to that other person, identifying information.” s14.

Director-General is the Director-General of Social Welfare.
Registrar-General is the Registrar-General of Birth & Deaths.
191 High Street, Lower Hutt.

Contact Social Welfare Adoptions Social worker for advice.

BIRTH PARENT ACCESS

Identifying Information on Adopted Person Adult Adoption Information Act 1985 s8

DSW Adoption Information Manual

“Birthparents can apply to the New Zealand Children and Young Persons Service of the Department of Social Welfare for the adoptive name of their child placed for adoption, once that child has attained the age of 20 years. That adopted person is to be located and consulted before his or her name may be given to the birthparent.

Birthparent may apply to Director-General

5.1 While an adopted person may apply for a copy of his or her original birth certificate, which, if no veto has been placed, will be given to him or her following counselling, a birthparent has no corresponding right to apply for the copy of the amended or adoptive certificate. The birthparent may apply to the Director-General of Social Welfare for the adopted person to be approached to ask if he or she is willing for his or her name to be communicated to the birthparent. It is important to note that, just as the adopted person may obtain his or her original birth data and choose not to proceed with contact, so may the birthparent. S8(2)(d)(iv) of the Adult Adoption Information Act states that if the adopted person has indicated.. that that person is willing to have that person’s name and address communicated to the applicant, the Director- general shall communicate them to the applicant and inform both of them of the effect of s10. That most birth-parents wish to make contact, and the Service’s procedures have been developed to take account of this, should not prevent the social worker from a clear understanding of the statutory requirements of the Act.

Any birthparent may make written application to the Director-General for identifying information. All enquiries, whether from within New Zealand or from overseas, should be addressed to: Adoption Information & Services Unit NZ Children & Young Persons Service, Private Bag 6901 Te Aro Wellington. Each enquiry should include the following information *as at the time of the birth*: Mother’s Name: Father’s Name (if applicable). Child’s Name: (if any) Sex of child: Child’s date of birth: Child’s place of birth: Applicant’s current name and address:

Details can be verified

If, as is quite common, the applicant is uncertain of any of these details, it is usually possible for the Registrar-General to locate the registration if the best known information is provided. The Director-General is required to be satisfied that an applicant under Section 8 is a birthparent of the adult adopted person concerned. When that satisfaction has been attained and there is no reason to doubt that the applicant is a birth parent of the adopted person, this information is referred to the Registrar-General’s Office on form SW677 ‘Adoption Information Inquiry’ for the original birth entry to be located, and a letter of acknowledgment is sent to the applicant.

Veto/No Veto

5.1.2 If the adopted person has placed a veto on the birth

entry, the Wellington Unit is advised on form SW677, and in turn advises the applicant of the fact of the veto and the date of expiry. A personal letter is written, advising whether or not a letter of explanation is available, and referring the applicant to the nearest Adult Adoption Information Social Worker if counselling and support are required.

Searching process may ask adoptive parents

5.1.3 If there is no veto, the applicant is advised of this in a form letter. The adoptive name having been given to the Wellington Unit by the Registrar-General, on form SW677, the Unit’s searchers then attempt to locate the adopted person’s current whereabouts. Departmental records, electoral rolls, marriage registrations, and updates from adoption files are commonly consulted. In the last resort, if no address can be found, the applicant is asked if he or she is agreeable to the adoptive parents being requested to provide one.

Letter to applicant when adopted person located

5.1.4 When the adopted person is located the applicant is advised that we are now able to make contact on his or her behalf, and asked if they wish to provide any information at that point concerning their situation, their wish for contact and how that may be effected.

Referral to District

5.1.5 The enquiry is referred, on form SW677, to the district in which the adopted person is living. The Adult Adoption Information social worker is asked to contact that person to ascertain his or her response to the birthparent’s application. It is important to do this with thought and care to communicate directly with the adopted person, without disclosing the information to anyone else. It is common practice to write to the adopted person in the first instance, usually on headed note paper. This gives the adopted person the choice of circumstances, time and place to respond. If there is no reply to this letter, it is necessary to establish whether or not the adopted person is at the address given by the Wellington Unit. One or more visits to the address in the early evening may encounter someone who can verify the facts or provide a forwarding address. It is very important that the local social worker make every effort to contact the adopted person, or, failing that, to obtain another address. If a second address is in the same area, the contact can proceed. If, however, the new address is in another district, this new address should be recorded on the SW 677, and the form returned to the Wellington Unit for re-allocation.

Contact with the Adopted Person

5.1.6 The social worker is in the role of mediator and facilitator, rather than advocate for the birthparent, when discussing the application with the adopted person. Although the birthparent is ‘the client’ in that she or he has made a statutory application for service, s 8 (2) (d) (ii) is specific about our responsibility under the Act, namely to ascertain whether or not the adopted person is willing to have that person’s name and address communicated to the applicant. The social worker’s role in relation to the adopted person is to give whatever information, assistance and support is requested to enable him or her to make an informed consent to the disclosure or not of his or her

name. It is important that the adopted person is not placed under any pressure in the making of this decision. It must be remembered that the delivery of any note, letter, or other personal information provided by the birthparent is entirely coincidental to the purpose of the social worker's contact with the adopted person, and that such information must not be allowed to, in any way, place pressure upon the adopted person.

Positive replies

5.1.7 permission to release name. There will often be no need for the social worker to contact the applicant on the adopted person's behalf when the response is positive. If the birthparent has provided the information to enable contact to be made directly, the adopted person can do this independently. Where the adopted person has not been given the applicant's name, he or she will be asked for permission for his or her name and address to be passed on to the applicant, who may then choose to initiate contact. There may well be a mediating role for the local social worker at this point, depending on what (if any) instructions the applicant has given with respect to contact. If the applicant wishes to be contacted directly with a view to direct communication with the adopted person, the local social worker can facilitate this reunion. If the applicant has not expressed a wish for contact, the social worker notes the adopted person's response on the back of the SW 677, including the specific permission for the name to be disclosed, completes and types on letterhead the form letter AISU/4d, posts it to the applicant and returns the form with a copy of the letter to the Wellington Unit.

Interim replies

5.1.8 There may have been some delay in being able to contact the adopted person, or she or he may need extra time to consider the approach. In these cases the applicant needs to be advised of this in an interim reply. In this circumstance, the social worker should consult the adopted person, to determine who is to reply. It is easier for the social worker who has spoken with the adopted person to convey the sense of the response, and the amount of information to be transmitted. If the adopted person has no objection to his location being disclosed, the local social worker may write or phone the applicant to explain the delay, and send a copy of the letter, or a record of the action to Wellington, for their file. If the adopted person does not agree to his or her location being made known, the local social worker will send a draft of the letter to Wellington for forwarding on.

Negative replies

5.1.9 When the adopted person's decision is to refuse permission for his or her name to be given, careful consideration has to be given to how the applicant is to be informed, and what information can be passed on. The adopted person is assured that his or her decision is accepted, but asked if there is non-identifying information that may be passed on to the applicant. It is for the adopted person to decide whether the response may be communicated by the local social worker, thus disclosing the location, or only through the Wellington Unit. In either case, it is preferable that the local social worker write the letter, containing only

that information which the adopted person has sanctioned, and either forward it to Wellington for posting on to the applicant, or write directly to the applicant, with a copy to Wellington.

SW677

5.1.10 'Adoption Information Inquiry' to be returned to the Wellington Unit when enquiry is complete. SW677 should be returned to Wellington as soon as the enquiry is complete. If there is a delay in contacting the adopted person, or he or she is needing time to make a decision, Wellington needs to be kept up with the state of affairs, either with brief memos or copies of letters to the applicant. It is in no way sufficient to inform Wellington that as the social worker is in touch with both parties, the enquiry can be completed. It is not completed as a statutory application until the birthparent has been given the adopted person's name and address or informed that the adopted person refuses permission for this information to be disclosed.

Birthfathers' rights

5.2 In many instances, only one birthparent's name appears on an adopted person's original birth entry, and that name is, of course, the birthmother'. Although the Adult Adoption Information Act makes no distinction in the definition of birth parent, it is necessary to clarify the situation when there is no evidence of paternity. The Adult Adoption Information Act states that 'Any person may make a written application to the Director-General for identifying information relating to an adult adopted person whose birth parent the applicant is' (s 8.1). The Director-General of Social Welfare has to be satisfied, however, that an applicant is a birthparent of the adult adopted person to whom the information sought relates, before proceeding with the application.

Birthfathers named on the original birth entry

5.2.1 Obviously, when a birthfather's name is on the original birth entry, his rights under the Act are those of the birth parent as set out in ss 3 and 8. He may veto the release of identifying information about himself; he may apply for information about the adoptee; he may opt to do nothing at all.

Birthfathers can have their names added to the original birth entry

5.2.2 If a birthfather's name is not on the original birth entry, he can apply to have his name entered there, according to s18 of the Births and Deaths Registration Act 1951. To do this, he needs to obtain the birth-mother's confirmation that he is the father of her child. The birthmother makes a statutory declaration to this effect on form R.G.257, available from the Registrar-General's office, requesting that the particulars relating to the said father be recorded in the entry of birth relating to the said child. This declaration has to be witnessed by a Justice of the Peace, a Solicitor or a Registrar. The father also makes a statutory declaration on form RG 257. It is a practical requirement that both statements are forward-ed to the Registrar-General's Office together. When this has not been done in the past, that Office has failed to link up the two declarations, and the transaction has not been completed. If the birthmother is

dead, or cannot be located, the birthfather can make a unilateral application to the Registrar-General stating this. He will be advised by that Office on the information he will need to supply.

If applicant is named in departmental records

5.2.3 If the birthfather signed consent to the adoption, or if the birthmother gave the birthfather's name when she was providing his description at the time of the adoption, and his name appears on the adoption file, and if he confirmed that he was the father of that child (either orally or in writing) to a social worker at the time of the adoption or at a later date (and a s 8 application would serve as confirmation at a later date), then it is departmental policy to proceed with the application. For the purpose of the application he must be named by the birthmother, if not on the adoption file, then acknowledged in some other document, such as a letter. A description, no matter how detailed, is an insufficient means of identification.

Where insufficient proof of birthfather's identity

5.2.4 If the applicant's name is neither on the original birth entry nor on the departmental records, or if the name and other details from the records give cause for doubt that the applicant is the birthfather, then we cannot proceed with his application under s 8 of the Act. He should be advised of the procedure for having his name added to the original birth entry, not only for his own sake, but also because his name cannot appear on any original birth certificate issued to the adopted person unless it is on the birth entry. There may be instances where an applicant claims to be the birthfather of an adopted person, but is not named on the birth entry or the adoption file, there is no other substantial evidence that he is the father, and he is unwilling for confirmation of his paternity to be sought from the birthmother. In such cases, the applicant has no access to identifying information under the Act. However, the applicant's details could be recorded as a separate statement and passed on to the adopted person if he or she approached us for non-identifying information about the birthfather, and on learning that there was no proof of the applicant's paternity, expressed an interest in contacting him anyway. In this case, both the applicant and the adopted person are in a similar position to siblings, grandparents and other members of the extended family who are able to use the department as a resource but who cannot receive identifying information about another individual unless that individual has specifically authorised its release to them. (See Requests under the Official Information Act).

Counselling available to birthparent

5.3 The applicant is informed, by letter from the Wellington Unit, of the name and phone number of the nearest adult adoption social worker, in case he or she may wish to talk over feelings or concerns about the anticipated reunion. It is then the applicant's choice to use or not use this support. Social workers approached to give support in these circumstances will respond as indicated by the request, providing information about the process, and counselling in person or on the telephone. Referral to support groups or networks may be helpful. It is not appropriate for the social

worker in the district in which the adopted person has been located to contact the birthparent applicant with the information that he or she will be the one who will make contact with the adopted son or daughter. While this may have a reassuring intent, it has not been solicited, and its ultimate effect, at this point in the process, may be to interpose unnecessarily between the reuniting parent and child. If these people want assistance, they may ask for it, but they are more likely to be better served at this point in the exercise by making contact for themselves.

When adopted person cannot be traced

5.4 Under s8.2 (d)(iii) of Adult Adoption Information Act, an adopted person's name and address cannot be communicated the birthparent unless their consent to this has been obtained. When the searchers at the Wellington Unit have done all that they can to locate a current address, but have been unable to find any means of contacting the adopted person, the applicant will be advised by letter of all the searching that has been done, that has not enabled us to contact the adopted person. The name and address of the adopted person may not, therefore, be released. The applicant will be assured that we will contact them if, in the future, we should have an approach from the adopted person.

Reapplying under Section 8

5.5 Nothing in the Act prevents a birthparent from applying more than once for the name of his or her adult birth child, when the name has not been obtained either because the adopted person has not been located, or because he or she has been approached by a social worker, and has declined to have his or her name passed on to the birthparent. When a subsequent application is received, it should be treated as for a first application, i.e. given a (new) number and processed through all stages. Some judgement may have to be exercised, however. It may be necessary to balance the right of the birthparent to apply, with the right of the adopted person who has been previously approached, to be free of harassment, and this should be discussed with an applicant. An adopted person who has indicated to a social worker that he or she does not agree to communication with a birthparent, may reasonably be approached again after an interval, and the situation explained. The initial application should be consulted, and taken into consideration when deciding how to proceed. An adopted person who feels strongly that he or she does not want to be contacted again can place a veto.

When an adopted person has died

5.6 When the Wellington Unit has been unable to find an adopted person in any available records, the registrations of deaths in New Zealand must be searched for all the years following the year he or she was last known to be alive. Deaths that have occurred outside New Zealand cannot be ascertained. Very recent deaths may not be traced as local registrations are returned to the Registrar-General every quarter. When the fact of a death has been established, all the information contained on the Register, including the name, is given in a personal letter to the birth parent. This letter is not sent directly to the applicant, but to the nearest adult adoption social worker, with the request to convey

the fact of the death in person to the birth parent and to leave the letter as written confirmation.

The social worker will then be available to support the birthparent in grieving the final loss of the child if this is requested, and to assist with obtaining further information if and when the birth parent is ready to do this. This may include the social worker inspecting adoption file, contacting the adoptive family, through another office if necessary, assisting with writing for newspaper articles or notices, and/or applying for coroner's reports. The social worker who approaches the adoptive parents will need to exercise sensitivity and patience, as they too will have grief to experience again, and may need considerable support in deciding what information and/or contact they can share with their child's birthparent(s). They are not required to provide any information at all, but may well see healing for themselves as well as the birthparent(s) in sharing photographs and memories of the time the child was alive. This is careful, unhurried social work.

Approaches adult adoptee intellectually impaired

5.7 All people of 20 years and over, regardless of their intellectual capacity or emotional state, are adults. Residents of psychopaedic and similar long-stay institutions have the same rights as any other adopted adults with respect to consenting to their names being given to their birthparents under s8(s) (d) (iii) of the Adult Adoption Information Act. In some cases, however, it may not be possible to ascertain what a severely intellectually incapacitated person's wishes may be, in the matter of contact with birth family, and it is questionable whether or not an informed consent can be obtained.

Social Worker making initial contact

5.7.1 When initial indications are that the adopted person may not be able to make a decision on his or her own account, the social worker should try to obtain a full history and an assessment of the best way to approach the matter in the best interests of the adopted person. If it is considered that the adopted person is unlikely to have any comprehension of parenthood other than his or her knowledge of the adoptive parents as mother and father, then not only could it be futile to try to explain the Adult Adoption Information Act to him or her, it could confuse and distress the person. At the same time, the birthparent has a right to a response to his or her application under s 8, and, as the facts of the situation are likely to be quite unexpected to him or her, it will be necessary to convey the information as sensitively as possible, once the facts of the matter have been ascertained. The course of action to be followed will depend to some extent on the social situation of the adopted person, e.g. whether his or her adoptive family are in regular contact, or whether the adopted person has some other person who stands as an impartial advisor. Possibly in the institutional situation, but more certainly where the adopted person is living in the community, the I.H.C. is likely to be involved. A social worker or other appropriate person from that organisation could be asked to assist. Where there is such a person who can be involved in discussing the situation, so that a decision can be made in the best interest of the adopted person, the social worker's role will be to coordinate discussion and provide information about re-

union and its outcomes for all concerned, including the adoptive family. Emphasis should be given to the positive possibilities in the birth family's involvement. It is anticipated that, in almost all cases, a satisfactory outcome will be achieved in this way.

Appointment of a Welfare Guardian

5.7.2 Where no agreement can be obtained, an application can be made to the Family Court for the appointment of a Welfare Guardian, under s12 of Protection of Personal and Property Rights Act 1988. This is a lengthy process involving an application filed with the local Court, the appointment of counsel for the adopted person and a minimum of two hearings. For this reason, and because the Court must be of the opinion that the appointment of a Welfare Guardian is the *only* satisfactory way to ensure that appropriate decisions are made, if this course of action is thought to be necessary, the local NZCYPS Legal Service should be advised and asked for assistance.

Wellington Unit to be informed

5.7.3 When the full facts of the situation are known, the Wellington Unit is advised, and a decision made about conveying the information in person to the birthparent. While there is value for the birth-parent in firsthand communication with the social worker who has met the adopted person, the initial contact will be made in the birthparent's own district, so that ongoing support can be available. Careful, sensitive, unhurried social work practice is essential in these situations.

Applications under Section 8 by agents acting on behalf of birthparents

5.8 Although s 8 of the Adult Adoption Information Act requires a written application from the birthparent, the principle of agency can apply, provided the agency is subject to tight restrictions. The essential point about agency is that the agent is acting for the principal (in this case the applicant). This means that the agent can do only what the applicant could do, the agent can do only what the applicant wants the agent to do, and the agent must act for the terms of s 8; these principles mean that: (a) Another person may make the written application required by s 8(a) as agent of the applicant. The application must be accompanied by the birth parent's written permission for the agent to act under s 8; (b) Information may be given to the agent under s 8(2) (a), (c) and (d)(iv) for transmission to the birth parent. The decision on what to do with the information must be made by the birthparent. Any action necessary to implement the decision may be carried out by the agent on the birthparent's behalf."

Source Adoption Information Manual CYPS DSW 1995.

Many birth mothers unable to take initiative

Iwanek—"Since the implementation of the Adult Adoption Information Act the Department of Social Welfare has received several thousand* letters from birthparents [*By 1991 over 4,000 were recorded on DSW passive register] who wish to be contacted if the other party so desired but felt personally unable to make formal application. The most common reasons given for not initiating an approach themselves were;

BIRTH PARENT ACCESS

(a) Concern that the adopted person may not have been told about the adoption and making a personal approach may be psychologically damaging and cause severe stress.

(b) Fear that the adoptive family may feel they are intruding into their lives and they not wanting to upset them as they have brought up the child.

(c) Feelings of unworthiness relating to the stigma of having given birth ex-nuptially and guilt from having given the child for adoption.

(d) Many worried that at the time of giving the consent to adoption they had to swear on the Bible that they would never attempt to find their child. They feel the change in the law does not release them from this oath given on the Bible. Preston. Iwanek Thesis1991

Iwanek—Many birthparents felt they were not entitled to information even though the Act gave them rights. As Preston in her study of birthparent's applications says: "while this may be a fact of the historical situation, it is also a continuing fact of the legislation. Birthparents have been given less entitlement in the access to information compared with that of their adopted children who, albeit through a counsellor, have direct possession of the birthparent's name and control of the searching process. We cannot know how many more birthparents would make application for information if they could do so in privacy and in their own time" Preston 1989. Preston found, in her research of the first two thousand applications by birthparents, an overwhelmingly positive response by adopted people who were contacted because their birthparents had made applications under the Act. She stated, "It is hoped that the generally positive outcome of these two thousand applications will be encouraging to birthparents and allay any fears that their approach will be unduly disturbing to their birth children or their adoptive families." Iwanek Thesis1991

Birthfather applications legal obstacles

Iwanek—"Considering the numbers of birthparent applications very few birthfathers are represented. This is not necessarily an indication of their interest, but merely that legally they are prevented from making application because their names are not entered in the birth registration. Under the Act birthfathers are able to make application, provided the Director General of Social Welfare is satisfied that the applicant is indeed the father of the child. This means in practice if the father's name is not entered in the birth register but is entered on departmental files or the description given by the birthmother clearly identifies him as the birthfather, his application could proceed in the normal way. There is an indication from practice that birthfathers are increasingly coming forward to make enquiries, but are unable to apply under the Act because they cannot prove paternity." Iwanek Thesis1991

Different birthparents' applications unnecessary

Iwanek—It was not the original intention of the Adoption Information Bill that there be differing procedures for adoptee and birthparents. The different provisions were inserted at the insistence of some politicians claiming many adoptees would not know they were adopted, and

must protected from the shattering consequences. Iwanek Thesis1991

Iwanek—"Nearly all social workers agreed that the different procedures for adopted people and birthparents were unnecessary. The original reason was to protect the adopted person who had not been told about their adoption, from traumatic consequences if they were unexpectedly approached by the birthmother. Few report having to approach adopted people who did not know they were adopted. Collectively, social workers had only come across 22 adopted people who had not known of their adoption. The overall reaction from those who were approached and didn't know, was that they wanted to meet the birthparents as soon as possible and did not resent having been contacted. They did have an angry reaction to the adoptive parents for not having been told of their adoption. Only one out of the 22 reported, did not wish to have contact. Social workers reported that although it came as a severe shock to some, others greeted the news positively and had suspected there was something different about them. The outcome demonstrates that most adoptive parents tell their children they are adopted. Social workers agree that although it was traumatic for some, the extra procedures in place seem to be totally unwarranted. Social workers report that birthparents prevented from doing their own searching were made dependent on the state which created a sense of powerlessness and unworthiness. They still received a message of being untrustworthy and perhaps irresponsible. The most compelling reason for change however, was that having separate procedures denied birthparents the opportunity to do the search themselves in their own time at their own pace. Again they reported, from their practice experience, that the search itself is a therapeutic process. It enables people to integrate each piece of information gives them the choice to stop and start whenever they wished. It was suggested by one that: "If adopted people, usually twenty years younger than their birthparents, are regarded as mature and stable enough to do their own searching and contacting, surely birthparents, who were older and more mature, would be even better able to cope with this and therefore should be allowed to do their own" Some report-ed it as insulting to regard the adopted people as more mature than the parents they were searching for." Iwanek Thesis1991

Birthfathers increasing response

Iwanek—"Counsellors and social workers reported, that the number of birthfathers searching for information is increasing. This is a concern, as the rights of a birthfather are limited, unless his name is on the birth certificate or on adoption files held by the Department of Social welfare. Those involved in working under the Act believe that more advertising or public education should be done to make birthfathers aware that they may be able to apply for information provided the Director General of Social Welfare is satisfied they are the father. If the name of the birthfather is available on the adoption file held by the department, then an application under Section 8 could proceed. Counsellors and social workers report that the number of adopted people questioning why the name of the birthfather is not on their birth certificate, gives an

indication of the interest of adopted people in birthfathers. Quite a number, they report, are disappointed and would have liked to embark on a search if they had the name. As the birthmother is the only one likely to provide this, they intend to initiate a search for her first. Social workers report that the comments made by birthfathers who come to seek counselling and find out their rights under the Act, are often related to wanting reassurance that the child is all right. They would like to have contact but only if the adopted person and the adoptive parents were happy about that. Those who came in and discussed their situation frequently stated family pressure at the time encouraged them to deny paternity, or the birthmother and her family had not revealed the pregnancy, until after the adoption consent had been given. In some cases birthfathers did not find out until many years later.” Iwanek Thesis 1991 Ch.5

Reasons birth parents don't initiate applications

Iwanek—The Department of Social Welfare files hold many letters from birth parents who leave a record of their willingness for contact, but do not wish to make a formal application under the Adult Adoption Information Act. The most common reasons cited are: **1** Many remember that at the time of giving consent to adoption, they had sworn on the Bible that they would never attempt to find their child. They still feel bound by this oath, in spite of the law change. **2** Anxiety adopted person may never have been told of the adoption, telling may be psychologically damaging. **3** Fear adoptive family may feel birth parent is trying to usurp their place in adopted person's life and affection. **4** Feelings of unworthiness relating to stigma of unwed parenthood and guilt from having given their child away. It was therefore not lack of interest, but rather inhibiting factors that deter birth parents applying. Another factor is that the legislation does in fact give reduced access by birth parents- and makes things more difficult for them. Preston 1990.

Locale of adoptees sought

Iwanek—Preston found of 2000 birthparent applications under sec.8, 695 adoptees were located living in the same district they had been placed for adoption. 118 were located living overseas- Australia=77. United Kingdom=33. Travelling=12. USA=4. Singapore=1. Canada=1. Preston 1990.

Protection measures under the Act

— **Adoptee must be an adult** before identifying information can be released to them or birth parents). 4.(1) 9(1).

— **Counselling of adoptee** required before they obtain their original birth certificate.5(2) 9(2). The counselling must be by an approved person or organisation. 6.(2).

— **Endorsement placed by Adoptee** s7 (a)Any adopted person, born before 1/3/1986, now aged 19+ years, may anytime request the Registrar-General to endorse their original birth entry to the effect they do not desire any contact with a specified birth parent or either of that person's birth parents. (b) Endorsement expires after 10 years, but may be lifted any time by the adoptee contacting the Registrar-General. (c) If there is an unexpired endorsement on the birth entry, the identifying

information on the adoptee cannot be accessed by that birth parent(s) under this Act. (d) Endorsements don't apply to birth parents where the person was adopted after 1/3/1986

— **Consent of adult adoptee required** s8 Even where there is no adoptee imposed endorsement, the consent of the adoptee must be obtained

— **Endorsement by Birthparents** s3 (a) A birth parent of a person adopted before 1/3/1986 may request the Registrar-General to endorse the adoptee's original birth entry to stop access to their identifying information. (b) Endorsement expires after 10 yrs, may be lifted any time by the birthparent contacting the Registrar-General. (c) If there is an unexpired endorsement on the birth entry, by a birth parent the identifying information on that birth parent cannot be accessed by the adoptee under this Act. (d) Endorsements do not apply to persons adopted after 1/3/1986 Iwanek Thesis 1991

Thousands of BP letters held by SWD

Iwanek—“Compliance with the statute from birthmothers is also not what was expected. The data so far collected shows that birthparent applications are far less than those of adopted persons. The department, however, has received several thousand letters from birthparents, giving indications and wanting it to be noted on files, that they were available for contact but did not wish to make the first move. Therefore compliance by birthparents under the statute has not been as great as could have been expected. The reason for this can only be assumed from the data presented by Preston 1989. Further data will need to be obtained to ascertain how best birthparents can be serviced in giving them access to information. The field research demonstrates that the provision of mediation services was very rarely required and that most people are capable to carry out their own searching and contacting.”

Source Mary Iwanek 1991 Thesis Ch.6.

Birth Parent access to identifying information

Trapski— **K11**, Any birth parent (s 2 Adult Adoption Information Act 1985), including the father of an ex-nuptial child, can apply in writing to the Director-General of Social Welfare for identifying information about an adult adoptee: s 8(1). If the Director-General is satisfied that the person applying is the birth parent of the adoptee in question, the following provisions apply:

(a) Where the adoptee is dead, the Director-General must inform the applicant of the adoptee's death and may disclose other information about the adoptee's circumstances at the time of death and the circumstances of his or her death: s 8(2)(a).

(b) The Director-General will inquire of the Registrar-General whether there is an unexpired endorsement on the adoptee's birth entry. If so, the birth parent shall be informed of the effect of the unexpired endorsement: s 8(2)(b) and (c).

(c) If the Director-General does not know the name of the adoptee but considers that a departmental social worker can probably ascertain identifying information without undue effort, the Director-General must arrange for a social worker to attempt to do so: s 8(2)(d)(i). If the

Director-General knows the name and address of the adoptee and considers that a social worker could contact the adoptee without undue effort, the Director-General must arrange for a social worker to attempt to make contact to ascertain whether the adoptee is willing to have his or her name and address given to the birth parent: s 8(2)(d)(ii). If the adoptee is willing, the name and address will be given to the birth parent and both parties will be advised of the effect of s 10: s 8(2)(d)(iii); see K14. Unless the adoptee is willing, the name and address shall not be communicated to the birth parent: s 8(2)(d)(iv).

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp380B K.11. (27/7/00) Brooker's

Information for birth parents

Your rights

CYP Website— If you are the birth parent of an adopted child, the Adult Information Act 1985 gives you the right to information about the adoption. The Act recognises that people in the adoption process may feel more complete when they have knowledge of their origins and each other. The Act also gives you the right to maintain your privacy. You can choose how much information other people will be able to obtain about you.

Access to the child's adopted name

If the adopted person is 20 or older, you can ask for information about her or him. You can write to: The Adoption Information and Services Unit Child, Youth and Family Private Bag 6901 Marion Square Wellington. You should give:

- your full name at the time the child was born
- the birth date, place and birth names (if any) of the child. Don't worry if you do not remember the exact details - write down what you can remember.

Checking for a veto

Child, Youth and Family will check with the Registrar-General to see if the adopted adult has put a veto on the registration to stop identifying information being given to you.

- If there is a veto, Child, Youth and Family will tell you and check to see if a letter of explanation for the veto has been left for you. A list of counsellors and agencies will be sent as well, as you may wish to discuss your situation with one of them.
- If there is no veto, Child, Youth and Family will tell you. They will then try to find the adopted person to see if they wish their name and address to be given to you.

If you are the birth father

If you are the birth father, you have the same rights as the birth mother, if you were registered as the child's father at the time of the child's birth. If you weren't, but you now wish to have your name entered on the birth certificate, you should apply to the Registrar-General. If your name is in Child, Youth and Family's records as the father, you may apply to the Department for identifying information.

Placing a veto on the birth registration

If you are a birth parent and you do not wish to have

identifying information about yourself released, and if your child was adopted before 1 March 1986, you have the right to ask the Registrar-General not to give out information which would identify you (section 3 of the Act). If your child was adopted after 1 March 1986, you have no right to place a veto.

Write to: The Registrar-General PO BOX 10 526, Wellington. Include these details:

- Name under which you registered the child.
- Date and place of the child's birth.
- Full name you used at that time.

The Registrar-General will send you a list of counsellors and agencies. Talking to a counsellor may help. However, you don't need to see a counsellor if you don't want to.

If you decide to put a veto on identifying information about yourself, please consider leaving with Child, Youth and Family some other information or a letter explaining the reasons for your veto. This will make it much easier for the other person to accept and understand the situation.

A veto is in force for 10 years, but you may change your mind and reverse the veto at any time.

If you live outside New Zealand

If you are a birth parent living outside New Zealand, your rights are the same as those of a birth parent living in New Zealand.

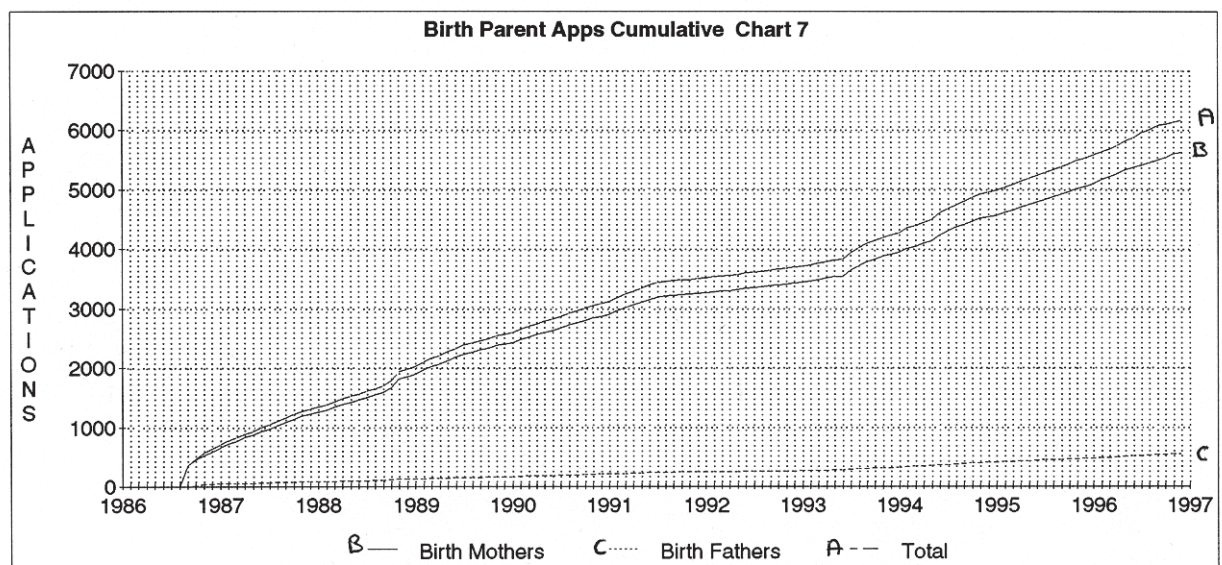
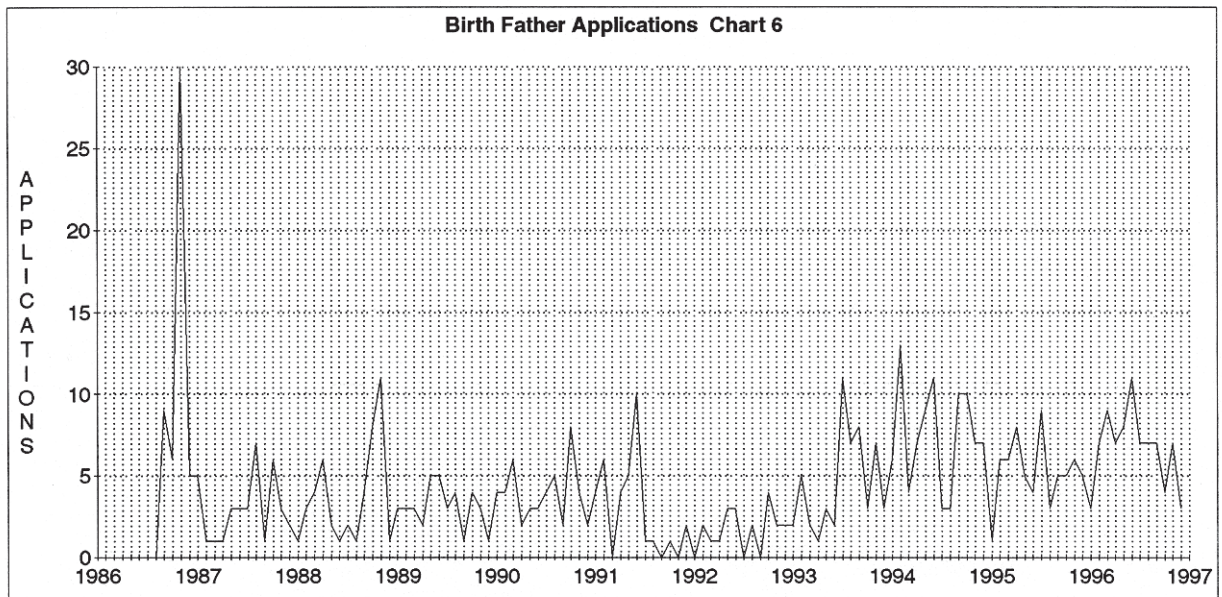
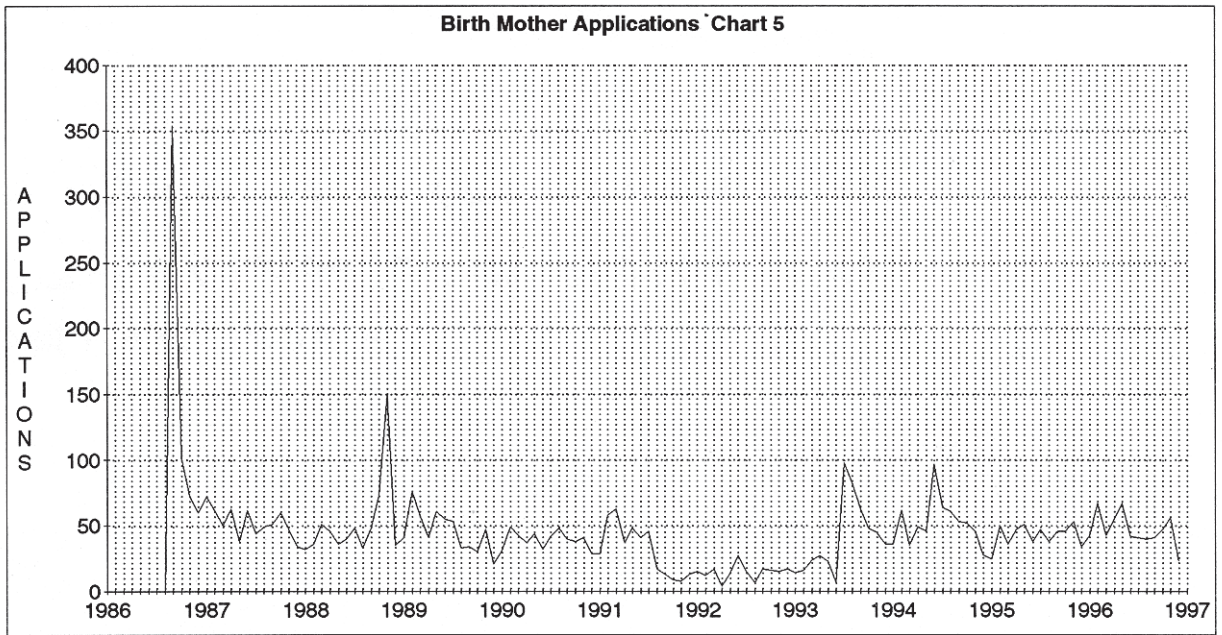
If you placed a child for adoption in another country

Child, Youth and Family is the NZ affiliated bureau of International Social Service. This organisation can help in tracing, contact and mediation across countries. Contact your local AISU office if you would like to find out more about this service. The Adoption links section also contains links to adult adoption information contacts in Great Britain.

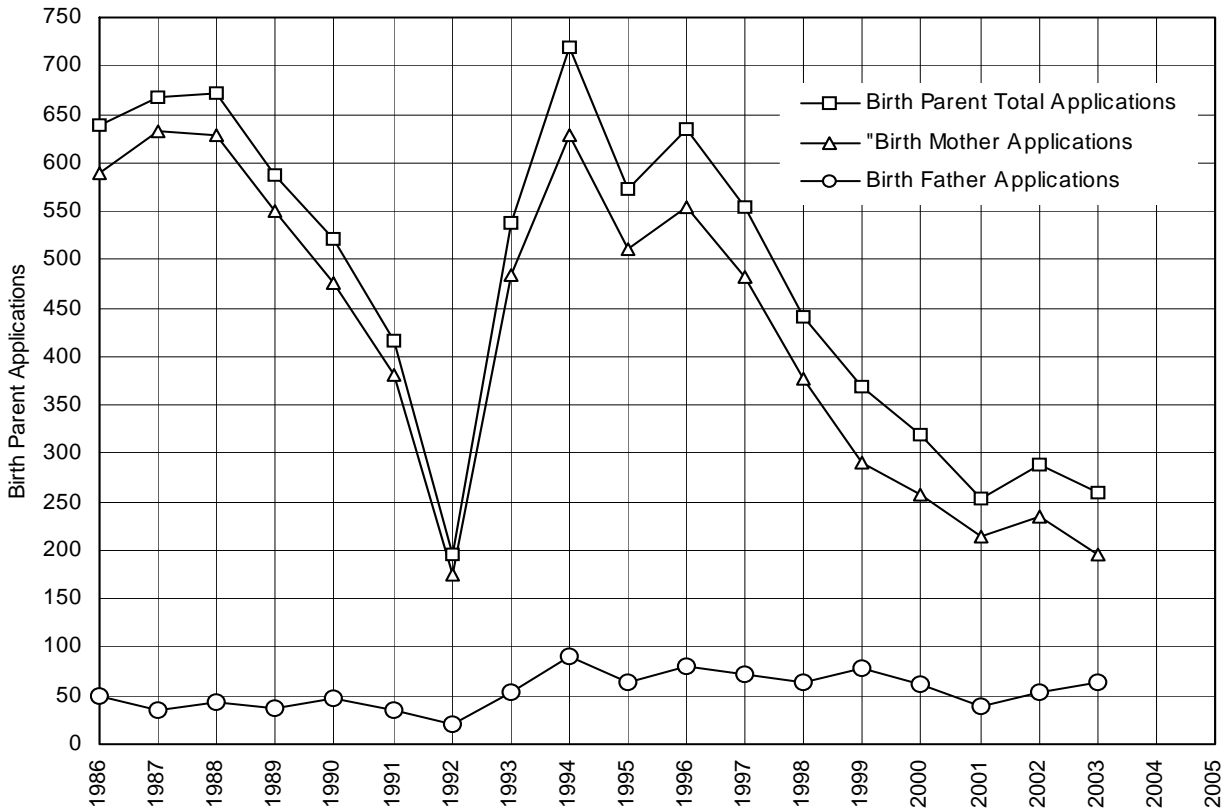
How do I contact AISU for more information?

You can contact an AISU office directly - [click here](#) to see a full list of details. Alternatively, [click here](#) to email the National Office AISU team. Remember to give as much detail as possible in your message, and state your location and contact details so that the appropriate team can help you.

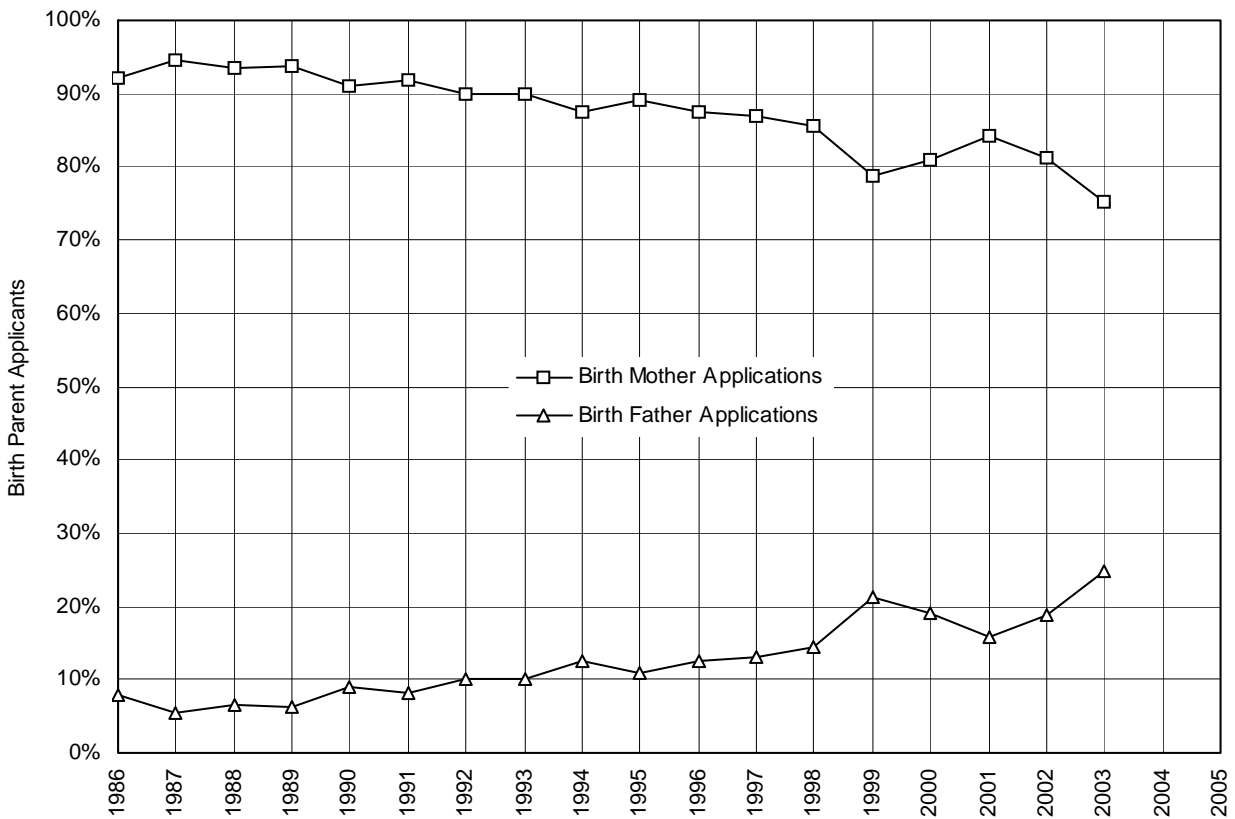
Source: www.cyf.govt.nz/view.cfm?pid=80 As at June 2004



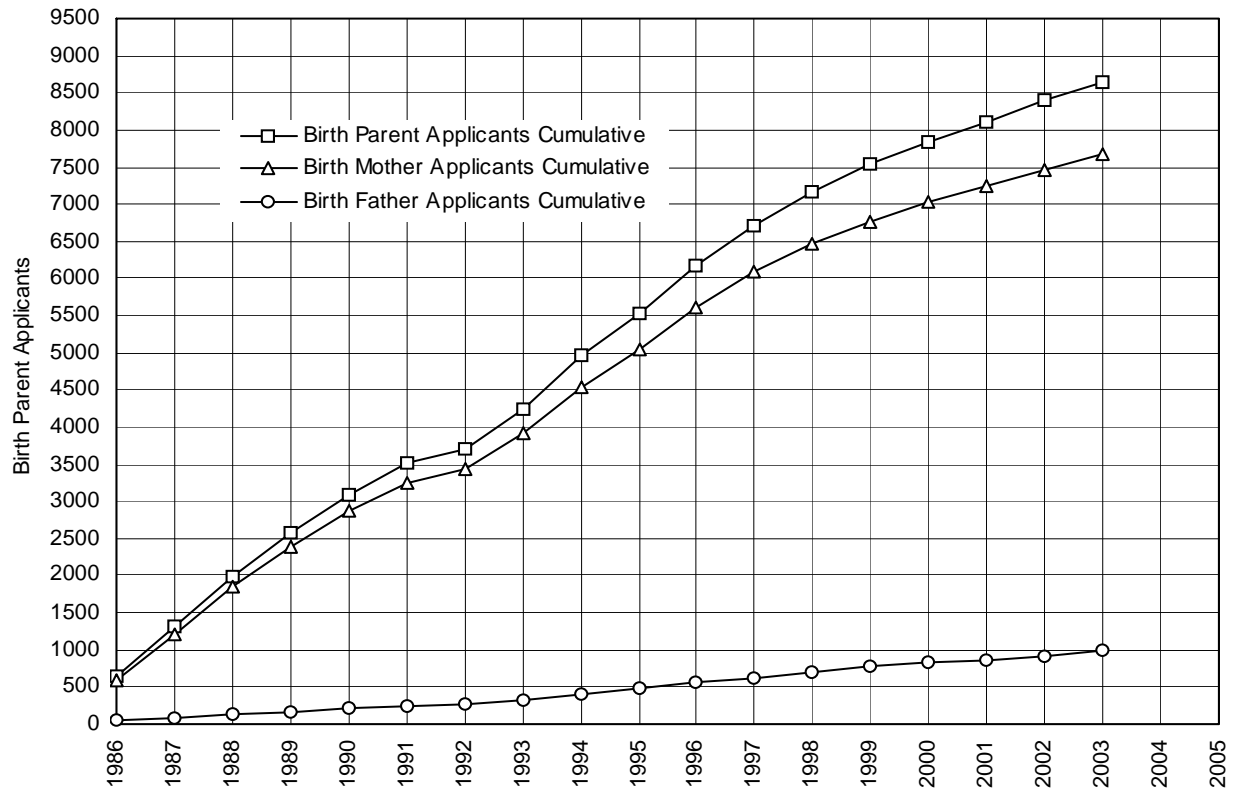
Birth Parent Applications for Identifying Information



Mother/Father Percentage of Applicants



Birth Parent Applications for Identifying Information Cumulative



BIRTH PARENT APPLICATIONS - MONTHLY RETURNS

For Identifying Information on Adopted Child per Adult Adoption Information Act 1985 Sec 8

<i>Access Commenced 1/9/1986</i>				1991	BFather	BMother	Total	1996	BF	BM	Total
1986	BFather	BMother	Total	January	4	29	33	January	3	43	46
September	9	354	363	February	6	58	64	February	7	57	64
October	6	102	108	March	-	63	63	March	9	43	52
November	30	73	103	April	4	37	41	April	7	55	62
December	5	60	65	May	5	48	53	May	8	67	75
TOTAL	50	589	639	June	10	41	51	June	11	42	53
1987	BF	BM	Total	July	1	46	47	July	7	41	48
January	5	72	77	August	1	17	18	August	7	40	47
February	1	62	63	September	-	13	13	September	7	41	48
March	1	50	51	October	1	9	10	October	4	47	51
April	1	63	64	November	-	8	8	November	7	56	63
May	3	38	41	December	2	13	15	December	3	23	26
June	3	62	65	TOTAL	34	382	416	TOTAL	80	555	635
July	3	44	47	1992	BF	BM	Total	1997	BF	BM	Total
August	7	49	56	January	-	15	15	January	5	34	39
September	1	51	52	February	2	12	14	February	6	45	51
October	6	60	66	March	1	17	18	March	8	44	52
November	3	47	50	April	1	4	5	April	4	29	33
December	2	34	36	May	3	14	17	May	9	59	68
TOTAL	36	632	668	June	3	27	30	June	6	39	45
1988	BF	BM	Total	July	-	15	15	July	4	37	41
January	1	32	33	August	2	7	9	August	6	38	44
February	3	36	39	September	-	17	17	September	14	46	60
March	4	51	55	October	4	16	20	October	4	36	40
April	6	46	52	November	2	15	17	November	6	52	58
May	2	36	38	December	2	17	19	December	0	24	24
June	1	40	41	TOTAL	20	176	196	TOTAL	72	483	555
July	2	48	50	1993	BF	BM	Total	1998	BF	BM	Total
August	1	33	34	January	2	14	16	January	6	25	31
September	4	48	52	February	5	16	21	February	5	34	39
October	8	73	81	March	2	24	26	March	2	42	44
November	11	150	161	April	1	27	28	April	6	38	44
December	1	35	36	May	3	23	26	May	7	38	45
TOTAL	44	628	672	June	2	7	9	June	5	23	28
1989	BF	BM	Total	July	11	98	109	July	5	26	31
January	3	41	44	August	7	83	90	August	9	48	57
February	3	76	79	September	8	63	71	September	4	28	32
March	3	58	61	October	3	48	51	October	4	28	32
April	2	41	43	November	7	45	52	November	8	23	31
May	5	61	66	December	3	36	39	December	3	24	27
June	5	55	60	TOTAL	54	484	538	TOTAL	64	377	441
July	3	53	56	1994	BF	BM	Total	1999	BFather	BMother	Total
August	4	33	37	January	6	36	42	January	4	28	32
September	1	34	35	February	13	62	75	February	5	24	29
October	4	30	34	March	4	35	39	March	5	28	33
November	3	47	50	April	7	49	56	April	9	15	24
December	1	21	22	May	9	46	55	May	8	25	33
TOTAL	37	550	587	June	11	97	108	June	10	24	34
1990	BF	BM	Total	July	3	64	67	July	10	26	36
January	4	31	35	August	3	61	64	August	5	39	44
February	4	49	53	September	10	53	63	September	9	25	34
March	6	43	49	October	10	52	62	October	5	20	25
April	2	37	39	November	7	46	53	November	4	18	22
May	3	44	47	December	7	28	35	December	4	19	23
June	3	32	35	TOTAL	90	629	719	TOTAL	78	291	369
July	4	42	46	1995	BFather	BMother	Total	2000	BF	BM	Total
August	5	48	53	January	1	25	26	January	5	15	20
September	2	41	43	February	6	50	56	February	5	24	29
October	8	38	46	March	6	36	42	March	9	21	30
November	4	41	45	April	8	47	55	April	7	26	33
December	2	29	31	May	5	51	56	May	4	19	23
TOTAL	47	475	522	June	4	38	42	June	1	17	18
The Adult Adoption Information Act 1986, Section 8 Applications by Birth Parents for Identifying information on their adopted out child that had attained the age of 20 years+ became operative 1/9/1886.				July	9	47	56	July	1	26	27
				August	3	38	41	August	10	31	41..
				September	5	46	51	September	9	23	32
				October	5	46	51	October	3	19	22
				November	6	53	59	November	4	19	23
				December	5	34	39	December	3	18	21
				TOTAL	63	510	573	TOTAL	61	258	319

BIRTH PARENT APPLICATIONS - MONTHLY RETURNS

For Identifying Information on Adopted Child per Adult Adoption Information Act 1985 Sec 8

2001	BFather	BMother	Total
January	5	17	22
February	4	18	22
March	5	21	26
April	2	17	19
May	2	25	27
June	4	9	13
July	4	27	31
August	2	17	19
September	4	20	24
October	2	18	20
November	5	11	16
December	1	14	15
TOTAL	40	214	254

2002	BFather	BMother	Total
January	2	20	22
February	1	17	18
March	4	15	19
April	1	20	21
May	3	20	23
June	8	26	34
July	2	15	17
August	2	21	23
September	10	29	39
October	7	21	28
November	8	18	26
December	6	12	18
TOTAL	54	234	288

2003	BFather	BMother	Total
January	4	13	17
February	7	14	21
March	4	18	22
April	4	12	16
May	12	17	29
June	9	20	29
July	1	21	22
August	3	10	13
September	6	24	30
October	6	24	30
November	6	9	15
December	2	13	15
TOTAL	64	195	259

2004	BFather	BMother	Total
January	4	13	17
February	5	25	30
March	5	44	49
April	1	11	12
May	4	15	19
June	0	10	10
July	7	12	19
August	0	18	18
September	10	8	18
October	2	11	13
November			
December			
TOTAL	38*	137*	175*

2005	BFather	BMother	Total
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
TOTAL			

2006	BFather	BMother	Total
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
TOTAL			

STATISTICS UPDATE
31st OCTOBER 2004
Total Applications for identifying information—

ADOPTED PERSONS	31,895
BIRTH PARENTS	8,825
TOTAL APPLICANTS	40,720

Note. For year 2004 stats totals marked are only for part year- January- October.

BIRTH PARENT APPLICATIONS - ANNUAL RETURNS

YEAR	Birth Father Applications	Birth Mother Applications	Birth Parent Applications	Birth Father Applications Cumulative	Birth Mother Applications Cumulative	Birth Parent Applications Cumulative	Birth Mother Applications Percent Per Year	Birth Father Applications Percent Per Year	Birth Parent Applications Plus Adoptee Cumulative
1986	50	589	639	50	589	639	92.2%	7.82%	4535
1987	36	632	668	86	1221	1307	94.6%	5.39%	7939
1988	44	628	672	130	1849	1979	93.5%	6.55%	10866
1989	37	550	587	167	2399	2566	93.7%	6.30%	13369
1990	47	475	522	214	2874	3088	91.0%	9.00%	15686
1991	34	382	416	248	3256	3504	91.8%	8.17%	17855
1992	20	176	196	268	3432	3700	89.8%	10.20%	19664
1993	54	484	538	322	3916	4238	90.0%	10.04%	21892
1994	90	629	719	412	4545	4957	87.5%	12.52%	24346
1995	63	510	573	475	5055	5530	89.0%	10.99%	26580
1996	80	555	635	555	5610	6165	87.4%	12.60%	29092
1997	72	483	555	627	6093	6720	87.0%	12.97%	31365
1998	64	377	441	691	6470	7161	85.5%	14.51%	33206
1999	78	291	369	769	6761	7530	78.9%	21.14%	34858
2000	61	258	319	830	7019	7849	80.9%	19.12%	36312
2001	40	214	254	870	7233	8103	84.3%	15.75%	37527
2002	54	234	288	924	7467	8391	81.3%	18.75%	38706
2003	64	195	259	988	7662	8650	75.3%	24.71%	39897
2004	38*	137*	175*	1026*	7799*	8825*	78.3%	21.71%	40313
2005									
TOTALS	1,026	7,799	8,825	1,026	7,799	8,825			40,720

**DSW assistance to locate birth parents
Adult Adoption Act 1985 Section 9**

The section only applies to adult adoptees who have already obtained a copy of their original birth certificate. They now seek more identifying information including, such as, present name and address of a birth parent or parents. Assistance may come from the adoption files and a search for the adoptees birth parents made by a social worker.

Application and verification

The adopted must be adult, and have already obtained a copy of their original birth certificate. [This normally obtained under s4-5]. "Any adult adopted person may make a written application to the Director-General for identifying information relating to either or both of that person's birth parents. (2) Every application under subsection (1) of this section shall be accompanied by an original birth certificate relating to the applicant." s9(1)(2)

Identifying information disclosed

"The Director-General shall disclose to an applicant under subsection (1) of this section all available identifying information relating to any birth parent concerned, and inform that person of the effect of section 10 of this Act, if, and only if,- (a) Details of that parent appear in the original birth certificate accompanying the application; or (b) The Director-General is satisfied that that parent is dead." s9(3)

Search birth parent name and address

"Where- (a) The Director-General is required by subsection (3) of this section to disclose to an applicant under subsection (1) of this section identifying information relating to a birth parent; and (b) The Director-General does not know the name and address of that parent; and (c) In the opinion of the Director-General, it is probable that a social worker can ascertain identifying information relating to that parent without undue effort,- - the Director-General shall cause a social worker to attempt to do so; and subsection (3) of this section shall apply to all identifying information obtained as a result." s(9)(4)

Note identifying information can only be released on those named in the original birth certificate. The birth fathers name is frequently omitted.

The term 'without undue effort' s9(4)(c) is defined in Collins English Dictionary as 'excessive or unwarranted' or Shorter Oxford Dictionary 'not appropriate' 'going beyond what is appropriate, warranted or natural; excessive'. A rather vague term. The social worker decides when the effort stops. That will vary with social workers and case loads.

**DSW contact mediation service
Adult Adoption Act 1985 Section 10**

Assistance is available for approaching another member of the adoption triangle. A social workers can make the initial contact. The applicant can be, (a) Any adoptee who is now an adult. (b) Any birth parent of a now adult adoptee. (c) Any adoptive parent. The applicant must know the present name and address of the person to be contacted.

Approach birth parent on behalf of adopted person

"An adult adopted person who has ascertained the name and address of a birth parent may request any social worker to approach that parent on that person's behalf." s10(1)

Approach adoptee on behalf of birth parent

"Any person who has ascertained the name and address of an adult adopted person whose birth parent that person is may request any social worker to approach that adopted person on that person's behalf." s10(2)

Approach birth parent on behalf of adoptive parent

"Any adoptive parent of an adopted person who has ascertained the name and address of a birth parent of that adopted person may request any social worker to approach that parent on that adoptive parent's behalf." s10(3)

Social worker may refuse "A social worker to whom a request is made under this section may decline that request. " s10(4)

Social worker approach conditions "Where a social worker accepts a request made under this section, that social worker shall approach the person concerned and ask if that person is willing to meet the person who made the request, and if so under what circumstances; and- (a) If the person concerned is unwilling to meet the person who made the request, the social worker shall so inform the person who made the request; and (b) If the person concerned is willing to meet the person who made the request, the social worker shall inform the person who made the request of the circumstances under which the person concerned is will to do so." s10(5)

Social worker explains rights "Where a social worker accepts a request under this section, and approaches any person,- (a) If the person who made that request is an adult adopted person, or an adoptive parent of an adult adopted person, that social worker shall inform the person approached of the rights (if any) that that person has under section 3 of this Act in relation to any other child of that person who may have been adopted: (b) If the person who made that request is a birth parent, that social worker shall inform the person approached of the rights that person has under section 7 of this Act in relation to the other birth parent of that person." s10(6)

Note any social worker may refuse the contact assignment. That does not preclude approaching other social workers.

Informing the contacted person of their rights. s10(6) Refers to veto rights on identifying information. In this case referring to other birth siblings adopted out, and the right of the other birth parent to veto their own identity.

DSW/CYP Assistance

Information and help to locate birth parents s9 Adoption Information Manual DSW

“Adopted people can apply to the Adoption Information and Services Unit for additional identifying information relating to a birthparent whose name was recorded on the original birth certificate. If the Service does not have the name and address of the birthparent, but can obtain them, a social worker will attempt to do so.

Application requires copy of original birth certificate

6.1 An adult adopted person can make written application to the Director-General for identifying information about the birthparent(s) whose names appear on the original birth certificate. A copy of his or her original birth certificate must accompany the application. The main purpose of this section is to facilitate the location of the birthparent(s). The Director-General shall disclose all available identifying information relating to any birthparent concerned, if, and only if: (a) details of that parent appear in the original birth certificate; or (b) the Director-General is satisfied that the parent is dead. Note that it is all available identifying information that shall be disclosed, regardless of its source. If the information, that is, the name or address is available to the social worker, then it must be given.

What information is available

6.2 Note that it is identifying information that is to be made available i.e. information that is likely to enable any other person to ascertain that person’s name and address. S9 of the Adult Adoption Information Act is not concerned with the provision of non-identifying information, and gives no licence to disclose personal information about a parent to a child. Particularly when a person has been deprived of any information at all, and is anxious to obtain any detail that will help to fill out the picture he or she is trying to assemble of the missing family member, it is very hard to withhold those details. Social workers need to keep in mind that the missing family member has a right to privacy about personal issues and encourage the person seeking the information to trace and contact the person concerned, and obtain the information directly from him or her.

Little or no information on birthparents may be held

6.2.1 In many instances adopted people making application for identifying information about their birthparents under s9 of the Act will be disappointed to find that the Department can add nothing to the identifying information on the original birth certificate. The Department did not keep files for the majority of the adoptions which took place before the early 1950s, and the National Office cards (now kept at the Wellington Unit) on which these placements were recorded do not contain any information about birth parents. If the adopted person was in departmental care before being adopted, there may be some information about the birth parents and the earliest years in the files held in the Department of Internal Affairs’ National Archives Records Centre or in National Office closed files, but this

is not always the case. Any requests for information which may be held in either the Records Centre or in closed National Office files should be made through the Wellington Unit. Closed National Office files are stored in more than one place; some have been transferred to microfiche. Searching for relevant material can be a slow process.

Adopted person’s access to info on birthfather

6.3 (a) If the birthfather’s name is on the original birth entry, the adopted person’s access to identifying information about him is as set out in ss5 and 9 of the Act. The adopted person applies to the Registrar-General for an original birth certificate and after receiving this, may apply to the Director-General for identifying information about the birth parent or birth parents whose names appear on that certificate.

(b) If the birthfather’s name does not appear on the original birth certificate because he is not named on the birth entry, we are unable to give any identifying information about the birthfather from departmental records, under the Adult Adoption Information Act unless the birthfather is dead. (See Requests under the Official Information Act).” Adoption Information Manual, CYPS DSW 1995.

DSW contact and mediation assistance s10

“Adopted people, adoptive parents and birthparents can ask a social worker from the Adoption Information and Services Unit for assistance in making contact.

Request for social workers to act as intermediary

7.1 From time to time the Department receives requests from people who want a social worker to act as intermediary between themselves and adopted people/birth parents/ adoptive parents whose names and addresses they know. S10 of the Act provides for social workers to be asked to:

- (1)** act as intermediaries for adopted adults and their birth parents. s10(1).
 - (2)** act on behalf of birthparents in contacting adopted adult children. s10(2).
 - (3)** act for the adoptive parents of an adopted person in approaching the birthparent(s) of the adoptive person. s10(3)
- A social worker may decline any request for assistance, (s10(4)). It is good practice to explain fully the reason for this refusal.

Section 10 applies only in the situations listed above

7.1.2 It is not an action under s10 to initiate contact in cases in which the requesting party does not know the name and/ or the address of the other. It is not necessary for an applicant under s10 to have obtained the name and address through the Adult Adoption Information Act.

The role of the intermediary

7.2 Before accepting such a task, the social worker should consider whether she or he would be the most appropriate intermediary in this particular situation. The intermediary should, with the applicant, give careful consideration to the way the approach will be made, and think through the advantages and disadvantages involved in initial contact by telephone, mail, or in person. The way the applicant wishes the intermediary to report back should also be

discussed. The social worker should remember at all times that they are acting on behalf of the person who has sought their assistance. The intermediary should ensure that contact is only made with the person sought, and that communications are private and confidential. The person's right to refuse information and/or contact must be respected, and ongoing support should be available to both parties involved if needed. An adopted person may ask a social worker to approach his or her birthparent(s) once he or she has received the original birth certificate and the birth parent has been located. There is no evidence to suggest that contact initiated by a third party will be more successful than that made by the adopted person, provided that he or she has been given the opportunity to think through the most appropriate way of making contact. Where the social worker decides to refuse to act under s10, it will usually be as a result of the adopted person's feeling empowered to undertake the action himself or herself.

Where the request falls outside provisions of the Act

7.3 Birth parents of adopted people under 20 years of age, adopted people under 20 years of age and their adoptive parents, and other relatives such as the siblings or the grand parents sometimes independently obtain identifying information about a person they are seeking and ask a social worker to make an approach to that person. These are not categories of person entitled under s10, and should not be registered as such. See Requests under the Official Information Act.

Requests for approaches where a veto is in force

7.3 It sometimes occurs that, despite the existence of a veto, identifying information about a person is obtained by somebody wanting to make contact, and a social worker is asked to approach the person concerned. A veto clearly implies 'no contact'. However, given that the person wanting contact already has identifying information, it is permissible for a departmental social worker to act on this request, if appropriate. Care should be taken not to breach the privacy of the people concerned, and not to involve any other person in discussions, e.g. other family members. At the point of contact, the social worker should immediately advise the person who has placed the veto that identifying information has been independently obtained by the person who wants contact. The social worker should also be in possession of as much information about the person seeking contact as they are able to obtain. Each situation will need to be carefully considered on its own merits." Adoption Information Manual, CYPS, DSW 1995.

Adult adoption Information social workers

DSW 16.1 "The Act defines 'Social Worker' as a social worker appointed or deemed to be appointed in accordance with section 8 of the Department of Social Welfare Act 1971. While, therefore, the adult adoption information task could, in theory, be undertaken by any social workers in NZCYPS, in practice, it is only to social workers in the Adoption Information and Services Unit that the original birth certificates will be sent. Specific tasks—

(a) To provide counselling to birth parents and adopted people who are considering placing a veto and who choose

to talk this over with a counsellor.

(b) To give original birth certificates received from the Registrar-General's office to adult adopted people who are required to have counselling. The counselling may be given by telephone or in person, depending on the wishes of the client, and the birth certificate must be released to the adopted person during the mandatory session.

(c) To provide assistance to adopted people and birth parents who ask for information from departmental records and who may need support while the searching process is underway.

(d) To provide supportive counselling during and after meetings between adopted people, adoptive parents and birth parents, whenever appropriate.

(e) To respond to requests for medical information made by registered medical practitioners.

(f) To consult and cooperate with independent counsellors and with other agencies and community groups with an interest in adoption. Support groups have already been formed in most areas. It is the social worker's responsibility, either to participate in the activities of existing groups as needed, or in areas where a group does not exist to ascertain community interest in setting one up, and offer assistance.

(g) To respond to requests from the Wellington Unit regarding birthparent applications for identifying information about adult adopted people (s8). It is the responsibility of Wellington staff to locate the adopted person, and then

(h) To respond to requests from the Wellington AISU regarding birth parent applications to ask the local office social workers to approach that person and ascertain their willingness to have contact with their birth parent(s). After the initial approach is made the district should advise the Wellington Unit of the outcome and can then continue to work directly with the adopted person and birth parent if needed.

(i) To act as intermediary should an adult adopted person ask for help in approaching a birth parent.

(j) To act as intermediary if approached by birth parents who know the name and address of their birth child (now adult) and who want an approach made on their behalf.

(k) To act as intermediary if adoptive parents want an approach to be made to birth parents whose name and address they know.

Adoption support groups

16.2 Prior to the implementation of the Act a small number of Support Groups existed in the community to support people who were looking for adoptees or birth parents. These groups are seen as providing a valuable service and have the support of the Department. It is the role of the Adult Adoption Information social workers to encourage the development of such groups in their area." Adoptions Information Manual CYPS DSW 1995

Usage of Section 9

The number of searching actions undertaken per Section 9(4)(c) were 1995=174. 1996=187.

Usage of Section 10

The number of requests for contact/mediation under Sec-

tion 10 of the Adult Adoption Information Act were 1995=130. 1996=115.

Department's assistance in approaching birth parent or adopted person

K.14: *Trapski*—Any of the following can seek assistance from the department in approaching another member of their adoption triangle:

(a) An adopted person aged 20 years or over (see definition of “adult” in s 2 Adult Adoption Information Act 1985) who has ascertained the name and address of his or her birth parent(s): s 10(1);

(b) A birth parent who has the name and address of a person who is his or her child, who has been given in adoption, and who has reached the age of 20 years: s 10(2) and definition of “adult” in s 2;

(c) An adoptive parent who has the name and address of the birth parent(s) of a child he or she has adopted: s 10(3).

To obtain departmental assistance it is necessary to make a request to a social worker attached to the department: s 10(1)-(3) and definition of “social worker” in s 2. The request need not be in writing or in any special form. It should be made to a specific social worker, but a request made to the local office of the department would no doubt be passed to an appropriate social worker - probably one of the department's adoption team attached to the Department of Child, Youth and Family Services. A list of Adoption Information and Services Units can be found in Annexure 13 of the Appendices.

Any social worker who is approached may decline the request: s 10(4). No reason need be given and there is no obligation on the department to transmit the request to another social worker. However, the person can approach another social worker if the initial request is declined. If a social worker agrees to make the approach, the birth parent or adoptee will be asked if he or she is willing to meet the person who has made the request and, if so, under what circumstances: s 10(5). If the person who is approached is unwilling to have a meeting, the social worker must tell the person seeking contact: s 10(5)(a).

Where an approach is made by a social worker on behalf of a birth parent, the social worker shall inform the adoptee of his or her rights to have a “no contact” endorsement placed on the birth entry: s 10(6)(b); K10. If the approach is made on behalf of an adult adoptee or adoptive parent, the social worker shall inform the birth parent approached of the rights (if any) to restrict access to identifying information under s 3(1): s 10(6)(a); K4.

Access to information by relatives

K.15: *Trapski*—The Adult Adoption Information Act gives no rights to birth relatives of an adopted person to receive a copy of the original birth certificate or non-identifying information. Yet siblings, children, and other relatives of the adopted person may have a legitimate interest in discovering information. They may find it hard to prove a special ground for the purposes of s 23(3)(b)(iii) of the Adoption Act: K19. A request for information made

under the Official Information Act is likely to be refused under s 9(2)(a) of that Act unless the consent of the birth parent is obtained: Adoptions Local Placements Manual (1995), para 10.5.1. Even if the birth parent has died, the Department of Child, Youth and Family Services still has a duty to respect the privacy of the deceased: Adoptions Local Placements Manual (1995), para 10.5.2.

Other relatives may be granted rights of access to information as a result of the recommendations of the current Law Commission review of adoption legislation: see x10.04.

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp381-382 K14-15 . (24/3/00) Brooker's

**Access to Information Medical Grounds
Adult Adoption Information Act 1985
Section 11**

Definition of terms for the purpose of this section. "Doctor" means a registered medical practitioner: "Medical" includes psychiatric: "Relative", in relation to any other person, means a person who is by blood the grandparent, parent, child, grandchild, or (whether of the whole or half blood) brother, sister, or cousin, of that other person: "Unknown relative", in relation to any person, means a relative whose name and address are unknown to that person by virtue of the confidentiality attendant upon the adoption of that person, that relative, or some other person who is a relative of them both. s11(1)

Application and verification
"A doctor who is — (a) Responsible for the medical treatment and advice of any patient; and (b) Satisfied that it is necessary or desirable, for the purpose of providing treatment of or advice relating to any medical condition of that patient, or for the purpose of providing genetic counselling for or in relation to that patient, to obtain information about the medical or genetic history of an unknown relative,— may give the Director-General notice in writing to that effect, specifying the information concerned." s11(2)(a)(b)

Social worker searches records
"A social worker may produce a notice under subsection (2) or subsection (3) of this section — (a) To the Registrar-General; and in that case, notwithstanding section 21(7) of the Births and Deaths Registration Act 1951*, the social worker shall be entitled to obtain an original birth certificate of the adopted person concerned: (b) To the Registrar of the Court where the Court file relating to the adoption concerned is held; and in that case the social worker shall be entitled to search, inspect, and take a copy of any document on the file concerned." s11(4)(a)(b)
[*1995 Amendment s4(a) now 's63 Births, Deaths, and Marriages Registration Act 1995". In force 1/9/1995]

Identifying information protected
"A social worker may disclose to the doctor concerned (in the case of a notice under subsection (2) of this section) or the doctor of any unknown relative (in the case of a notice under subsection (3) of this section) any information whatsoever (not being identifying information) relevant to the medical or genetic history of the patient or relative concerned. s11(5)". "No doctor shall disclose to any person any identifying information obtained by the use of information obtained under this section." s11(6)

Placing new medical information on file
"Where, in the opinion of any doctor, any information obtained as a result of that doctor's dealings with any patient is likely to be relevant to provision of treatment of or advice relating to any medical condition of potential medical condition of any unknown relative, or the provision of genetic counselling for or in relation to any unknown relative, that doctor may with the consent of that patient (or, where that patient is not an adult, of that patient's guardian) give the Director-General notice in writing to that effect, together with a separate statement of that information." s11(3)

**MEDICAL INFORMATION
Access to Information**

Adult Adoption Information Act 1985 Section 11

The adoptees lack of medical history was one of the costs of complete break adoption. It was believed environment would overcome most health problems, and genetics had no influence on personality. We now know a very different story, genetic history is now a very important tool for diagnosis, treatment and prognosis of many medical and mental conditions. Therefore, the Adult Adoption Information Act 1985 made provision in s11 for access to information on medical grounds. The application can only be made by a registered Medical practitioner who is the patients doctor, to the Registrar-General in writing. Under this section there is no age restriction and veto endorsements do not apply. As no identifying information can be released under this section, except with the persons affected express permission, it contains an in-built veto. Social worker access to Registrar-Generals and Court adoption records is provided. The social worker is entitled to search, inspect, and take a copy of any document on the file concerned, s11(4)(b) and Adoption Act 1955 *new* s23(3)(a). The social worker must be employed under Part V of the State Sector Act 1988 in the Department of Social Welfare. s2.

Access to information on medical grounds

K16: Trapski—A registered medical practitioner or psychiatrist, who is responsible for the medical treatment and advice of a patient and is satisfied that it is necessary or desirable to obtain information about the medical, psychiatric, or genetic history of an unknown relative of the patient, can give written notice to the chief executive of the Department of Child, Youth and Family Services (formerly the Department of Social Welfare) specifying what information is required: s 11(1) and (2) Adult Adoption Information Act 1985. The information must be needed for the purpose of providing:

- (a) Treatment or advice relating to the medical condition of the patient; or
- (b) Genetic counselling for, or in relation to, the patient: s 11(2)(b).

"Relative" is defined as a person who is, by blood, the grandparent, parent, child, grandchild, or (whole- or half-blood) brother, sister, or cousin. An "unknown relative" is a relative whose name and address are unknown to the patient because of the confidentiality attendant upon the adoption of that patient, that relative, or some other person who is a relative of them both: s 11(1).

A social worker who produces the doctor's notice to the Registrar-General can obtain an original birth certificate of the adopted person concerned, notwithstanding s 63 Births, Deaths, and Marriages Registration Act 1995: s 11(4)(x). If the notice is produced to the Registrar of the Court where the adoption file is held, the social worker can search the file and copy any document on it: s 11(4)(b). The social worker may disclose to the doctor any

information relevant to the medical or genetic history of the patient or relative (not being identifying information): s 11(5). The doctor must not pass on any identifying information obtained under this section: s 11(6).

A doctor can give notice in writing to the chief executive of information obtained from or through a patient which is likely to be relevant to the provision of treatment or advice relating to any medical condition (or potential condition) of any unknown relative, or relevant to the provision of genetic counselling for or in relation to any unknown relative: s 11(3). This information can be given only with the consent of the patient or, if the patient is under 20 years, the patient's guardian: s 11(3).

Source Trapski's Family Law Vol. 5. 'Adoption' pp382 K16. (24/3/00) Brooker's

DSW Adoption Information Manual

Guideline s11. "Doctors may seek medical information about a patient's 'unknown relative' from the Director-General, and also, with the patient's (or their guardian's) consent, supply the Director-General with medical information relevant to any "unknown relative". As part of such medical investigations, a social worker is entitled to obtain an original birth certificate and inspect court records. No identifying information obtained as a result of these investigations should be disclosed.

Doctor to apply in writing to Director-General*

8.1 It is important to note that any transmission of medical information is not allowed under this section of the Act unless it is initiated in the form of a written statement from a doctor. [*Adoption Information and Service Unit, Private Bag 6901 Te Aro Wellington Ph 04-3857889]

Age limit and veto not applicable

8.2 The inclusion of s11 in the Adult Adoption Information Act is an acknowledgement that genetic and medical information may be so important that it can be transmitted irrespective of the age of the parties concerned...and irrespective of whether or not a veto has been placed by the birth parent or the adopted person concerned, appropriate medical information may be passed on.

Any patient eligible when affected by adoption

8.3 The intention of s11 is to both give and receive information. Note the Act refers to 'any patient' who may be the grandchild, sibling, or cousin of the 'unknown relative', unknown because his/her identity has been concealed by the adoption of some person in the family.

Registered medical practitioner only may apply

8.4 The only person who can apply for information under this section is a registered medical practitioner. It is not sufficient to have a request from a therapist other than a doctor. As the Act specifies that 'medical' includes 'psychiatric', should a psychologist or other therapist wish to have a family history, and while this would be a valid use of the Act, the request would have to be made through the client's doctor. The doctor who wishes to apply, should write to the Adoption Information and Services Unit in Wellington, being quite particular about the nature of the information required. Searchers in Wellington will need to

establish the relationships and locate the parties in question, before the enquiry is referred to the districts in which the parties are living, for contact. It is not sufficient for a medical practitioner to supply his or her patient with a letter saying, 'My patient Mrs ..., needs to have information on her adoptive background for medical reasons'.

Inspection of birth records of Reg-General or Court

8.5 Note that s11 does not require the Director-General to take action in response to an application, but states that the social worker **may** obtain an original birth certificate, or inspect the court records. It is most unlikely that any medical information will be obtained by this means alone, as no medical information is contained on a birth entry or on a Court Order of Adoption. To give effect at all to the intention of this section of the Act, more research is necessary. Obtaining the adoptive or the birth name may be only the first step to locate the 'unknown relative'. The Act makes no mention of how the social worker is to obtain the medical information which s(he) has permission to pass on to the doctor concerned. It may be possible to obtain some data from an inspection of the death registrations of members of the family concerned. The most effective means of acquiring information that will be of any practical use in the circumstances, however, will be to approach the person himself or herself. Although the Act only refers to the social worker having contact with the doctor of either party, there is no way to ascertain who a person's doctor is without asking that person, and in any case, the doctor, if known, would be most unlikely to divulge information without her/his patient's consent...

Approach to be carefully considered

8.6 As with all contacts under the Act, the approach should be carefully thought out. Most post adoption contacts, whether or not medical information is an issue, will be through s5 or s8. The additional considerations under s11 may be that the approach is entirely unexpected because a veto has been placed, or because the person concerned is under 20. As well as the unexpectedness and the usual emotional reaction to bringing out the deep feelings associated with adoption, the medical condition to be discussed may provoke considerable anxiety. It is important that the social worker explain the situation as fully as the available facts allow, and make it clear to the person approached that her or his co-operation is requested in the interests of the person whose health is affected. No-one is compelled to provide information, or even to discuss the matter if they do not wish to. The person approached will decide if referral to his or her medical advisors is appropriate. He or she may take time to enquire further around his or her own family, or may refer the social worker to another source of information, perhaps the other birth parent. It is usually only after a specific or predisposition is identified in these discussions that it is appropriate to refer the matter to the relevant medical practitioner.

No identifying information to be disclosed

8.7 Section 11 specifies that it is to *the doctor who first enquired*, to whom, the social worker may impart the information obtained, and that *no identifying information*

may be passed on by either. This is so unless the person from whom the information has been obtained is willing to assume the responsibility of communication himself or herself, and/or is not concerned about becoming identified in the process. If either or both of the parties indicate their wish to exchange identifying information, there is no barrier to their doing so. Social workers should be careful not to assume this, however, and to obtain clear permission from each party.”

Source Adoption Information Manual CYPS DSW 1995

Deficiencies of section 11

In theory it looks fine, in reality it's difficult. In almost every case the required medical data is not recorded on any adoption record. With new medical knowledge doctors want specific detail, from both the birth father and mother. In almost every case it requires contact with birth relatives. Search actions may be initiated by that Department as set out in their Adoption Information Manual. Medical information applications are subject to the discretionary decision by the Director-General, s11(4) 'may', there is no right of appeal. However if an application was declined, the applicant could still apply under the Adoption Act 1955 s23 on special grounds. The alternative is to bypass section 11, either by, (a) the adoptee initiates a s5 search, or birthparent s8, age limitations and vetoes will still apply *or* (b) application is per Adoption Act 1955 s23(3)(b)(iii) asking a Judge to grant access to an adoption record on "special grounds," age limitations and vetoes do not apply. My experience of families with important adoptee medical genetic problems, is that actual contact between adoptive and birth families is normally very helpful. I have been appointed mediator in three applications granted on special 'medical' grounds, Adoption Act 1955 section 23(3)(b)(iii). In each case, only when the applicant doctor was put in direct communication with the sought after person and her doctor, by mutual consent, was the required medical data obtained. KCG

Usage of provision

Applications under s11 were 1995=12, 1996=9 Total 21. Prior to 1995 no stats kept. Reasons for few applications is most applicants proceed under s5 or 8 when seeking medical information. An advantage of s11 is that a social worker has immediate access to the Court Records without waiting for a hearing before a Judge, the veto provisions cannot cause any obstacle, there is no age restriction, and 'any person' is given a wide interpretation. KCG

1993 Inglis JD QC Hastings FC *Application to inspect adoption records* Applicant raised medical issues. The Judge summarised the proper procedures under Adult Adoption Information Act 1985 s11 [1994] NZFLR 297 See Adoption Records Case Law for full Report on this Case

COUNSELLING

Adult Adoption Information Act 1985

Approved counsellors and organisations

Approval must be given by the Minister of Social Welfare, and Gazetted as provided in s12 of the Act. "Minister may approve persons and organisations for purpose of Act. —

(1) The Minister of Social Welfare may from time to time, by notice in the Gazette, approve any person or organisation (whether incorporated or unincorporated) to undertake counselling under the Act.

(2) Any approved organisation may from time to time notify the Director-General of the name of any member or employee authorised to act on behalf of that organisation; and may at any time notify the Director-General that the authority of that member or employee has been withdrawn." s12.

Interpretation in this Act, unless the context otherwise requires, ... "Approved organisation" means an organisation for the time being approved under section 12(1) of this Act: "Approved person" means a person for the time being approved under section 12(1) of this Act; and includes a person whose name is for the time being notified under section 12(2) of this Act: s2.

Optional counselling for birth parent placing a veto s3(2)

(a) "The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations.

(b) That person shall indicate to the Registrar-General whether or not that person desires counselling:

(c) If that person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:

(d) If that person (i) Indicates that that person does not desire counselling; or (ii) Under paragraph (c) of this subsection requests the Registrar-General to proceed with the original request- the Registrar-General shall case the original entry of the birth of the adopted person concerned to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed." s3(2)

Optional counselling for adopted person placing a veto s7(2)a

"The following provisions shall apply to every request under subsection (1) of this section:

(a) The Registrar-General shall inform the person making that request of the counselling available in the area in which that person lives, from social workers and approved persons and organisations.

(b) That person shall indicate to the Registrar-General whether or not that person desires counselling:

(c) If the person indicates that that person desires counselling, the Registrar-General shall take no further action until that person requests the Registrar-General to proceed with the original request:

(d) If that person- (i) Indicates that that person does not desire counselling; or (ii) Under paragraph (c) of this subsection requests the Registrar-General to proceed with the original request- the Registrar-General shall case the original entry of that person's birth to be endorsed accordingly, and to be endorsed also with the date on which it was so endorsed."

Counselling adult adopted person applying for their original birth certificate**Adopted persons adopted before 1/3/1986 Compulsory Counselling s5(2)**

(a) "The Registrar-General shall notify the applicant in writing,- (i) If the applicant lives within New Zealand, of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and (ii) That except where the applicant lives outside New Zealand, an original birth certificate will not be given to the applicant until the applicant has received counselling:

(b) If the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to- (i) The appropriate office of the Department; or (ii) The approved person or organisation specified by the applicant,-as the case requires:

(c) The person or organisation to whom or to which an original birth certificate is sent under paragraph (b) of this subsection shall release to the applicant after the applicant has received counselling:

(d) If it appears to the Registrar-General that the applicant is permanently resident outside New Zealand, the Registrar-General shall send the applicant an original birth certificate and the address of the Director-General." s5(2)(a-d)

Adopted person adopted on or after the 1/3/1986. Optional Counselling s6

(a) "The Registrar-General shall notify the applicant in writing,- (i) Of the counselling available in the area in which the applicant lives, from social workers and approved persons and organisations; and (ii) That within 28 days the applicant notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, and original birth certificate will be sent to the appropriate office of the Department or that person or organisation; and (iii) That if the applicant does not desire counselling, or fails within 28 days to inform the Registrar-General that the applicant does require counselling, and original birth certificate will thereafter be held on the applicants's behalf:

(b) If the applicant- (i) Notifies the Registrar-General in writing that the applicant does not desire counselling; or (ii) Has not, within 28 days following the dispatch to the applicant of the notice under paragraph (a) of this section, notified the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation,- the Registrar-General shall forthwith notify the applicant in writing that an original birth certificate is held on the applicant's behalf:

(c) If the applicant is notified under paragraph (b) of this section that and original birth certificate is held on the applicant's behalf, and thereafter notifies the Registrar-General in writing that the applicant wishes it sent to the applicant, the Registrar-General shall send it to the applicant:

(d) If, within the 29 days following the dispatch to the applicant of the notice under paragraph (a) of this section the applicant has notified the Registrar-General that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall forthwith send an original birth certificate to- (i) The appropriate office of the Department; or (ii) The approved person or organisation specified by the applicant,- as the case requires; and the applicant shall be entitled to uplift it at any reasonable time."

COUNSELLING

Origin

Counselling stemmed from provisions in the Childrens Act 1975, England. If New Zealand legislation was to follow the successful English statute, it was argued that similar counselling should be provided. New Zealand counselling provisions first appeared in the Births and Deaths Registration Amendment Bill 1979 No.102-1 "All applications for identifying information are to be "accompanied by a certificate from a social worker certifying that the applicant has discussed the application with the social worker."

Counselling informative not therapeutic

Kennard—It needs to be made clear that both the intention and nature of the counselling in England and New Zealand is informative. It is to clarify issues and options, it is not therapeutic counselling. Some professionals and politicians wanted to implement compulsory therapeutic counselling of adoptees, in the mistaken belief that searching adoptees were in some way maladjusted and at risk to themselves or others. This attitude was firmly rejected, adoptees and birth parents were to be treated as normal people exercising their legitimate rights under the Act.

"In New Zealand, counselling, as provided under the Adult Adoption Information Act, has been taken to mean providing useful information rather than traditional counselling. Because of this, there was a little confusion, some people felt they had not received counselling, but had just chatted to the counsellor...Many people made the point that while they thought counselling was valuable and should be available, they did not need it themselves. They thought it was essential for young people who might make rash decisions and 'some people' who might not be as stable or considerate as themselves...some were prepared to put up with counselling being compulsory if it would help these others."

Source Jill Kennard 'Adoption Information: The Repossession of Identity' Thesis 1991 pp114-115

Statute

Provides for the specialised nature of counselling required. The Act makes special provisions for the task. (a) Departmental Social Workers s3(2)(a)(i) s6(a)(i), and (b) Individuals and approved Organisations s3(2)(a) See statutory flow chart on previous page. Summary—

Approved counsellors and organisations s12.

Approval must be given by the Minister of Social Welfare and Gazetted. Organisation are mainly voluntary and need not be incorporated. They notify the Director-General of the name of any member authorised to counsel

Counselling adult adopted person adopted before 1/3/1986

Counselling is compulsory if the applicant lives in New Zealand. The Registrar-General notifies the applicant of counselling available s5(2)(a). A copy of the applicants original birth certificate is posted to the chosen counsellor s5(2)(b). After counselling the counsellor must hand the certificate to the applicant s5(2)(c). Counselling is not required if the applicant lives permanently outside

New Zealand, their birth certificate is posted direct to them s5(2)(a)(d). No counselling is required if there is an unexpired veto. A copy of the original birth certificate, with any identifying detail of the vetoing birth parent omitted is posted direct to the applicant.

Adopted persons adopted on or after 1/3/1986

Optional. The Registrar-General notifies the applicant of counselling available. If the applicant chooses counselling a copy of their original birth certificate is posted to the chosen counsellor s6(a). After counselling the counsellor must hand the certificate to the applicant s6(d). If the applicant does not reply to the Registrar-General's 'counselling available' letter within 28 days, they are notified a copy of their original birth certificate is being held. On request the certificate is posted to them. s6(c)

Counselling birth parents placing a veto

Optional. The Registrar-General informs the applicant of counselling available. If they choose counselling the Registrar-General will await their further instruction before taking any action. If they choose not to receive counselling the veto is placed forthwith s3(2).

Counselling adopted persons placing a veto

Optional. The Registrar-General informs the applicant of counselling available. If they choose counselling the Registrar-General will await their further instruction before taking any action. If they choose not to receive counselling the veto is placed forthwith s7(2).

DSW/CYP Adoption Information Manual

2.1 "The Counselling is available from Adoption Information and Services Unit social workers from The NZ Children and Young Persons Service, and from approved individuals and organisations. Those providing adult adoption information counselling should be trained for the task, which is principally an information giving and supportive one. This concept of the task accords with the wishes of the client groups consulted prior to the implementation of the Act about the type of counselling they thought should be available to them. Adult adopted people and birth parents of adopted adults are as emotionally healthy the population at large. However, the results of the adoption experience may present more challenges to life than happens with non-adopted people and non-relinquishing parents. Counselling may assist with some of the challenges. It must generally be acknowledged, moreover, that participation in counselling is not unusual, nor is it an indication of failure. It is a normal and healthy way of responding to a crisis or a deeply emotional experience. A significant section of the community will seek counselling at some time in their lives. People who feel they need therapy may decide to consult a therapist in addition to using the counselling services available under the Act. The adult adoption information social worker could then help them choose the most appropriate person to provide therapeutic counselling. (It must, however, be recognised that the Adoption Information and Services Unit is funded to provide only counselling as prescribed in the Act, and that there is no additional funding to pay for referrals for specialist or therapeutic counselling. Any such costs are the responsibility of the person receiving counselling.)

COUNSELLING

Ongoing information and support

2.2 Social workers will be available to provide supportive counselling prior to an application under the Act, while the search and contact processes are under way, and during or after meetings between adoptees and birth parents. Social workers will consult and cooperate with independent counsellors and other agencies and community groups with an interest in adoption. Support groups have already been formed in most areas. It is the social worker's responsibility, either to participate in the activities of existing groups as needed, or, in areas where a group does not exist, ascertain community interest in setting one up, and offer assistance. In many instances, the social worker will be the first point of contact for anybody making enquiries relating to the operation of the Adult Adoption Information Act. This will include receiving enquiries from adoptive parents, siblings, grandparents and other members of the extended family. While the Act makes no provision for counselling for members of the wider adoptive family, social workers should respond sympathetically to any requests for advice or assistance that they receive in the field of adult adoption information."

Source Adoption Information Manual CYPS DSW

Purpose of counselling

(a) To give the adopted person information about the adoption from the adoption files (if any) and give to give the original birth certificate.

(b) to help you understand and consider the options open to you once you have received the information.

(c) to help you understand and consider some of the possible effects of a reunion between an adopted person and the birth parents. The counsellor is not there to try and make you change your mind about the decision you have made. The counsellor has no right to keep information from you, unless a veto has been put on the birth registration."

Source 'Adult Adoption Information Act 1985 Your Rights' BirthLink. Department of Justice and SWD.

Where does counselling fit in

Rockel and Ryburn— "The law states that people adopted before 1 March 1986 must receive their original birth certificate from a counsellor appointed under the Act to carry out this task. These counsellors are either social workers from the Department of Social Welfare or other approved agencies, or non-professionals working in the community. All are chosen because of their interest in this aspect of adoption. Some adopted people resent having to see a counsellor. They point out that it is another instance of adopted people being treated as permanent 'children', and that it seems to imply that people who want to know about their origins are somehow in need of counselling. Some fear they might have to prove to the counsellor that they are fit to receive the certificate. This fear is understandable but unfounded. During their training, counsellors are instructed that under no circumstances are they to withhold a birth certificate. The counsellor's task is to answer any questions about the information on the certificate: to give people an opportunity to talk about their

reactions to it if they wish; to explore with them what would be involved in seeking a reunion with their birth family; and to offer support as the journey of discovery continues."

Source Rockel and Ryburn 'Adoption Today Choice and Change in New Zealand' 1988 p66

Telephone counselling

Iwanek— "From data collected from counsellors and social workers it seems that approximately 65% of counselling takes place by telephone rather than in person. Nevertheless, the data shows that some people only provide counselling face to face and very seldom counsel by telephone. From the interviews, when this issue was explored in more depth, it appears that counsellors' preference usually dictates whether the counselling takes place by telephone or face to face, rather than the applicant making a choice. However much of the counselling takes place by telephone, particularly in areas with large numbers of applications or where people have to travel great distances." Iwanek 1991 Thesis.

Kennard— In Kennard's study sample, only 10% were counselled by telephone, but the sample bias was toward Social Welfare counsellors. Some 64% of sample felt they had not been give a choice of telephone or face to face. Some traditional counsellors may find it more difficult to transfer to telephone counselling. Kennard 1991 p120

Face to face Iwanek 35% of counselling is face to face.

Choosing independent or DSW counselling

For adoptees an advantage of DSW counselling is they have access to adoption files not available to independent counsellors. However, some people do not want contact with the Department due to unfinished business re adoption or Welfare issues, they prefer an independent person. Others may be distant from the Welfare adoptions worker.

Iwanek's— study of the first six months operation of the Act, 49.2% of *all* applicants saw an independent counsellor. In Kennard's smaller study sample, 61.4% were counselled by Social Welfare, 17.2% by an independent counsellor, 9% by an approved organisation, 11% not at all, saw more than one counsellor or were uncertain.

Counselling guards myth of mixed up adoptees

Kennard— "It was apparent that many people felt compulsory counselling was a small price to pay if it enabled them to get their original birth certificate. They did not see it as being a benefit to them, rather as something they had to put up with, but were careful not to protest too much in case it stopped them from getting the information they wanted. This raises some questions. Do these 'mixed up', people with 'deep psychological problems' exist and if so, are they such a threat to their birth families that counselling must be compulsory because of them?...There is little indication in the questionnaires returned in this study of 'mixed up' people with 'deep psychological problems', only of people who have waited years to learn a little more about who they are, and are proceeding in a caring and considerate manner. It seems likely that we have legislated to guard against a myth - a myth that is so pervasive in our

society that many adopted people have also been conditioned to believe it.” Kennard 1991 pp117-8.

Society, professionals, adoptees believe myth

Kennard— “What has been apparent throughout this study is the power that myths have over the lives and actions of many adopted people. Although those who answered the questionnaire felt confident of their own motives and responsibility in searching, many believed that the motives and considerations of other adopted people was in doubt, and that counselling was necessary to protect birth parents. It is not surprising that adopted people themselves believe this myth when it is the prevailing belief in society, and some ‘experts’ reinforce it.” Kennard 1991 p118.

Power and stigma

Kennard— There is a power issue in compulsory counselling. The word counselling has connotations of the client coming from a negative position. Another stigma that goes with being an adoptee. What other group of people in our society are compelled by law to undertake counselling to obtain information on their origins? cf Kennard 1991 p121

Counselling- adult adopted person response

Compulsory or optional		
Should be compulsory	98	67.6%
Should be optional	30	20.7%
Unsure or no answer	27	11.7%
Choice		
DSW counsellor	89	61.4%
Independent counsellor	25	17.2%
Voluntary Agency	13	9.0%
More than one counsellor or none	16	11%
Method		
Telephone		10%
Face to face		90%
No real choice given	93	64.1%
Found counselling helpful	105	72.4%
Met counsellor more than once	64	44.1%
Influence		
Positive	66	45.5%
No influence	59	40.7%
Negative influence	4	2.8%
Not seen counsellor or uncertain	16	11%

Source. Extracts Kennard 1991 pp.114-121.

Independent Counsellors Section 12

DSW Adoptions Information Manual

14.1 “Under Section 12 of the Act, the Minister of Social Welfare may, from time to time, by notice in the *Gazette*, approve any person or organisation to undertake counselling under the Act.” The provision of this independent counselling service gives birthparents and adult adopted people an alternative to the Departmental counsellors. This element of choice is particularly important for adult adopted people as they must have counselling before they receive an original birth certificate containing identifying information about one or both birthparents.

The Independent Counsellor’s Responsibilities

14.2 under the Act. These are two-fold: (a) To provide counselling for birthparents and adopted people who are considering placing vetoes on birth entries and wish to discuss this matter with a counsellor. (Sections 3 and 7). (b) To provide counselling for adult adopted people receiv-

ing original birth certificates containing identifying information. (Section 5).

Independent Counsellors provide voluntary service

14.3 Individuals providing counselling under this Act are doing so in their own time. Many adult adopted people wishing to make contact with birthparents are disappointed to find that identifying information contained in the original birth certificate seems totally inadequate for the tracing process, and that little or no additional information is available through the Department. They will need advice on conducting their own search, and support while this lengthy process is undertaken. While the independent counsellor will have some input into this, she or he may not necessarily have the time to provide all the help needed. Nor do individuals and agencies approved to undertake counselling under Section 12 of the Act have any statutory responsibility under Section 10: Departmental assistance in approaching parent or child. This section refers to social workers (not counsellors) making approaches on another person’s behalf. Independent Counsellors are paid through the Department, but are not employees of the Department. They are not required to report other than to provide a record of numbers of birth certificates issued, and not subject to discipline from the Department. Should there be any complaint against an Independent Counsellor that the Individuals concerned could not resolve themselves, the matter would have to be referred to the Minister.

Appointment not preclude adoption support activities

14.4 Prior to the implementation of the Act, many individuals developed considerable expertise, not only in counselling and supporting people undertaking the searching process, but also in acting as intermediaries for those wanting to make contact. That they have received Ministerial approval to carry out specific duties under the Act does not preclude their continuing to help others in a private capacity. However, when making an approach to one person on another’s behalf, an approved counsellor should make it clear to all parties concerned that she or he is acting in a completely private capacity (as intermediary, or friend, or adoption support group member) in order to avoid confusion about the nature of, and limits to, the independent counselling task. This is particularly important where the person seeking help is in possession of information obtained outside the Act, or when the approach involves people who are not provided for in the Act.

The ideal appointee

14.5 Person profile for independent counsellors is similar to that for adult adoption information social workers, with emphasis on their understanding of the Act, their ability to relate to all the people affected by its provisions, their knowledge of the adoption process, and some background or training in nondirective counselling. Their counselling task, like that of the social worker, is one of information giving, not therapy. Therapists in private practice who seek ministerial approval under Section 12 would need to be able to demonstrate that they have had an active and voluntary involvement in the relevant areas, and that they

intend to continue with this on a voluntary basis. The Ministerial appointment could not be used in advertisements of their professional services.

Independent Counsellors' fees

14.6 Payable by this Department. Independent counsellors' services are provided free of charge to the applicant, but the counsellor receives a fee of \$35.00 from this Department for each person referred to them by the Registrar-General. The counsellor only receives one payment per client, regardless of whether they see that person once or several times.

Department's relationship with Independent Counsellors

14.7 There should be a positive and complementary working relationship between Departmental staff and independent counsellors and approved agencies, with regular liaison to offer mutual support, share any positive/negative aspects of the work, and identify joint learning needs. Responsibility for community awareness and the development of support groups should be shared.

Appointment process for Independent Counsellors

14.8 Agencies and individuals seeking approval to undertake counselling under section 12 of the Act apply to this Department, which forwards their applications to the Minister of Social Welfare. The application is made to the National Manager, Adoptions, who while giving consideration to the merits of the applicant, will need to be satisfied that there is need for an additional Independent Counsellor in that District. If there is a need, an interview may be arranged, if the applicant is not already well known to the local AISU or Support Group. Should an applicant meet the requirements, a recommendation for appointment will be made to the Minister. Once an application has been approved, Head Office arranges for a notice of appointment to appear in the Gazette. Agencies approved to undertake counselling may then notify the Department of the specific employees who will carry out this task. The individual counsellor is gazetted, irrespective of the district in which he or she was appointed; a counsellor who moves to another area may continue to function as an Independent Counsellor in that new area.

List of departmental and Independent Counsellors 14.9 The Wellington Adoption Information and Services Unit liaises with the Registrar-General's office on the upkeep of the list of departmental and independent counsellors' names and phone numbers which is sent out to applicants by the Registrar-General's office."

Source Adoptions Information Manual CYPS DSW 1995

Independent counsellor numbers and use

Iwanek—1991 "Currently there are 42 independent counsellors approved by the Minister of Social Welfare under the Act. Of these, just over half are either adoptive parents, adopted persons or birthparents. Quite a number of these had been involved in support groups in the main centres prior to the passing of the legislation. Of these, 14 were interviewed in person and 28 were sent postal questionnaires from which 20 replies were received. A survey

carried out six months after the implementation of the Act, found that of the original birth certificate applicants, 49.2% chose an independent counsellor to issue the original birth certificate. This was further followed up two years after the Act when it appeared that approximately 45% of applicants used independent counsellors. (Preston 1988). From this one must conclude that independent counsellors have played a very significant part in the implementation of this Act. Independent counsellors do not get paid for their service but are volunteers who get a fee of \$35.00 for every birth certificate issued, regardless of how much contact with the applicants.

Source Mary Iwanek Thesis 1991

Adoption Counselling

Trapski—K17 The counsellor is likely to be someone well versed in adoption law and procedures, and with a knowledge of the attitudes and feelings of people who are affected by an adoption order.

Birth parents requesting endorsement restricting access to information

K.17.01 Birth parents who have given a child in adoption before 1 March 1986 and who have asked for a "no access" endorsement on the adoptee's birth entry must be offered counselling. s 3(2)(b) Adult Adoption Information Act 1985. The Registrar General must inform the birth parent of "the counselling available in the area in which (the birth parent] lives, from social workers and approved persons and organisations": s 3(2)(a). Counselling is optional and can be either refused or discontinued. If the birth parent indicates he or she does not require counselling, or requests that the original request be proceeded with, the birth entry will be endorsed: s 3(2)(d). Counselling will no doubt explore the birth parent's reasons for wishing to block any access to identifying information by the adoptee, and help the birth parent to consider the position of the adoptee (who may later wish to have contact). The possibility of attaching a note to the file giving reasons for not wishing contact with the adoptee may be discussed: s 3(2), see K.4.

Adult adopted persons who apply for their original birth certificate

K17.02: The Adult Adoption Information Act 1985 gives adoptees the right to receive a copy of their original birth certificate once they attain the age of 20 years. However, this right is limited by the right of a birth parent to lodge a "no contact" endorsement: s 4 Adult Adoption Information Act 1985, see I{.5. Details of any parent who has lodged an endorsement will not be disclosed unless that endorsement has been withdrawn or has expired.

A person adopted before 1 March 1986, where there are unexpired endorsements on the birth entry, is entitled to the original birth certificate, but with details of the birth parents omitted. There are no counselling provisions: ss 4(1)(b) and 5(1).

A person adopted before 1 March 1986, where there are no unexpired endorsements on the birth entry, is entitled to their original birth certificate, but only after they have received counselling. Although s 5(2) is ambiguous, it

can be inferred that such counselling must be provided by a social worker or an approved person or organisation: ss 4(1)(c) and 5(2).

A person adopted on or after 1 March 1986 is entitled to his or her full birth certificate, but first shall be notified by the Registrar-General of counselling from social workers and approved persons and organisations available in the area in which they live: s6. Counselling is optional and, if counselling is not accepted, a copy of the original birth certificate will be available: s 6(a)(iii).

The purpose of counselling is not to encourage or discourage the adoptee from obtaining the birth certificate or making contact. It is to give the person information about the adoption from the adoption files and to hand over the original birth certificate. The counsellor will help the adoptee understand and consider the options available after the information has been received, to explore the possibility of a reunion between an adoptee and his or her birth parents, and to discuss the use of a mediator. See BirthLink, Adult Adoption Information Act 1985: You Rights.

Adopted persons asking for “no contact” endorsement

K17.03: An adopted person aged 19 years or over may ask for a “no contact” endorsement to be placed on his or her birth entry: See s 7(1) Adult Adoption Information Act 1985; K.10. On making such a request the adopted person must be informed by the Registrar-General of counselling available locally: s 7(2)(a). There is no obligation on the adopted person to receive counselling and if it is declined the endorsement will be placed on the birth entry as requested: s 7(2)(d).

It is not the counsellor’s function to try to discourage an adoptee from asking for a “no contact” endorsement. The counsellor’s role is to help the adoptee clarify his or her feelings and the reasons for wishing to prevent contact.

Counsellor Selection and duty to client Criteria for selection of counsellors

Trapski— K18.01: The Adult Adoption Information Act 1985 was the first statute to provide for counselling in adoption matters, and it recognises the specialist nature of such counselling. Under ss 3(2)(a), 5(2)(a)(i), and 6(a)(i), only departmental social workers, and individuals and organisations approved by the Minister of Social Services, Work and Income are entrusted with counselling. Approval is given by Gazette notice: s 12(1). An organisation does not have to be incorporated to be approved: s 12(1). Once approved, an organisation may notify the chief executive of the Department of Child, Youth and Family Services of any member or employee authorised to undertake counselling and can give notice that such authority has been withdrawn at any time: s 12(2). A list of approved counsellors (as at 20 July 1998) can be found in Annexure A.13 in the Appendices.

According to the Department of Child, Youth and Family Services, the criteria for selection of suitable counsellors under the Act are that:

(a) They have in-depth knowledge of the whole adoption

process and a comprehensive historical perspective of it.

(b) They have had practical experience with the tasks to be carried out under the Act.

(c) They should be prepared to consult and cooperate with community groups and refer to other services when needed.

(d) They have demonstrated, by attitudes and action, a commitment to change and a belief in the positive promotional aspects of the Act. Experience of being part of the triangle could be advantageous provided the applicant has attained a balanced view of adoption.

(e) They have the maturity to relate quickly to people of all groups, both sexes, different ethnic and social backgrounds, and have good rapport-building skills.

(f) They have training in counselling and knowledge of client-centred techniques and crisis intervention approaches.

(g) They believe in nondirective counselling, and accept that counselling under the Act has an information-sharing and not a therapeutic focus.

(h) They can cope with a client’s severe stress, deep pain, or other strong expression of feelings, and can work patiently at the client’s pace.

(i) They are flexible, open to suggestions, and able to have views and work practices examined by peers, and to accept supervision.

Counsellors are paid by the Department of Child, Youth and Family Services on a per session basis (currently \$90). Counsellors are not required to report to the Child, Youth and Family Services other than to advise, for statistical purposes, the number of birth certificates issued. Although counsellors are paid under the Act for providing a specific statutory duty, there is no reason why they should not continue to help the client in a private capacity by, for example, assisting with the tracing of members of their family of origin or providing therapeutic counselling.

Statutory duties of counsellor to client

K.18.02:

In addition to the statutory tasks outlined in the Adoption Act 1955 counsellors may be subject to the provisions of the Health and Disability Commissioner Act 1994 (s 2(b)(i) and the Code of Health and Disability Consumers’ Rights found in Schedule to the Health and Disability Commissioner (Code of health and Disability Services Consumers’ Rights) Regulations 1996.

The following summarises a portion of the Code of Health and Disability Services Consumers Rights. The full text of the Code is reprinted in Trapski III, Related Legislation.

Right 1: the right to be treated with respect, to have one’s privacy respected, and to be provided with services that take into account the needs and values of different cultural, religious, social, and ethnic groups including Maori.

Right 2: the right to be free from discrimination, coercion, harassment, and sexual, financial, or other exploitation.

Right 3: the right to have services provided in a manner that respects the dignity and independence of the individual.

Right 4: the right to services of an appropriate standard, that is: provided with reasonable care and skill; complying with legal, professional, and ethical standards; consistent with one's needs; optimising one's quality of life; and reflecting cooperation among providers to ensure quality and continuity of services.

Right 5: the right to effective communication such that one can understand the information provided (including the right to an interpreter), and to an environment of open, honest, and effective communication.

Right 6: the right to be fully informed, that is, to be given the information needed to make an informed choice or give consent, with honest and accurate answers to questions relating to services.

Right 7: the right to make an informed choice and give informed consent, including the right to refuse services, to withdraw consent, and to express a preference as to who will provide services and have that preference met where practicable. Where a consumer has diminished competence, the consumer retains this right to the extent appropriate to their level of competence.

Right 8: the right to support, that is, to have one or more chosen support persons present, except where safety may be compromised or another consumer's rights infringed.

Right 9: rights in respect of teaching and research.

Right 10: the right to complain about a provider. A complaint may be made to those who provided the service, to anyone authorised to receive such complaints, and to any other appropriate person including the Health and Disability Commissioner. Every provider must facilitate the proper resolution of complaints.

Duty of confidentiality in common law or in equity

K.18.03: Most counsellors subscribe to a code of ethics which includes an obligation to maintain client confidentiality. The precise legal basis of this duty will vary from one situation to another. Where a counsellor is paid for services it may arise from an express or implied agreement. Where the counsellor is not paid by the client the duty may be based in common law or equitable obligation.

In a 1998 High Court decision, *J D v Ross* [1998] NZFLR 951, the extent of the duty of confidentiality owed by helping professionals towards their clients was considered. R, an educational psychologist employed by Ministry of Education, had been assisting the father of a school student in relation to his daughter's behavioural problems at school and in the home. The daughter later made allegations of sexual abuse against the father and, in the course of an investigation, a social worker from the Children, Young Persons and Their Families Service ("CYPS") spoke to the educational psychologist.

From the report it does not appear that R passed on to CYPS any information received from the father but R did make a comment to the effect that he had not picked up that the daughter's behaviour might have been symptomatic of a person who had been sexually abused. The High Court considered this to be a breach of client confidentiality and awarded damages against R and the

Ministry on the basis that discussing the matter with CYPS and disclosing that the father had sought advice about his daughter amounted to breach of an equitable duty of confidentiality.

The significance of this decision is that:

(a) The act of someone from one government agency speaking to someone from another government agency can amount to an actionable breach of confidence even though no damaging information is released in the course of the conversation.

(b) A helping professional owes a duty of confidentiality to a person who consults that professional even though:

(i) The consultation is gratuitous (ie there is no payment for the service);

(ii) The service provider gives no express assurance as to client confidentiality; or

(iii) The consultation relates primarily to a third party.

(c) The duty of confidentiality is not absolute and can give way to the public interest (eg where the safety or protection of a child is in question).

(d) Damages for breach of confidentiality can be awarded for a relatively insignificant disclosure if the person affected has suffered a sense of betrayal as a result of breach of confidence.

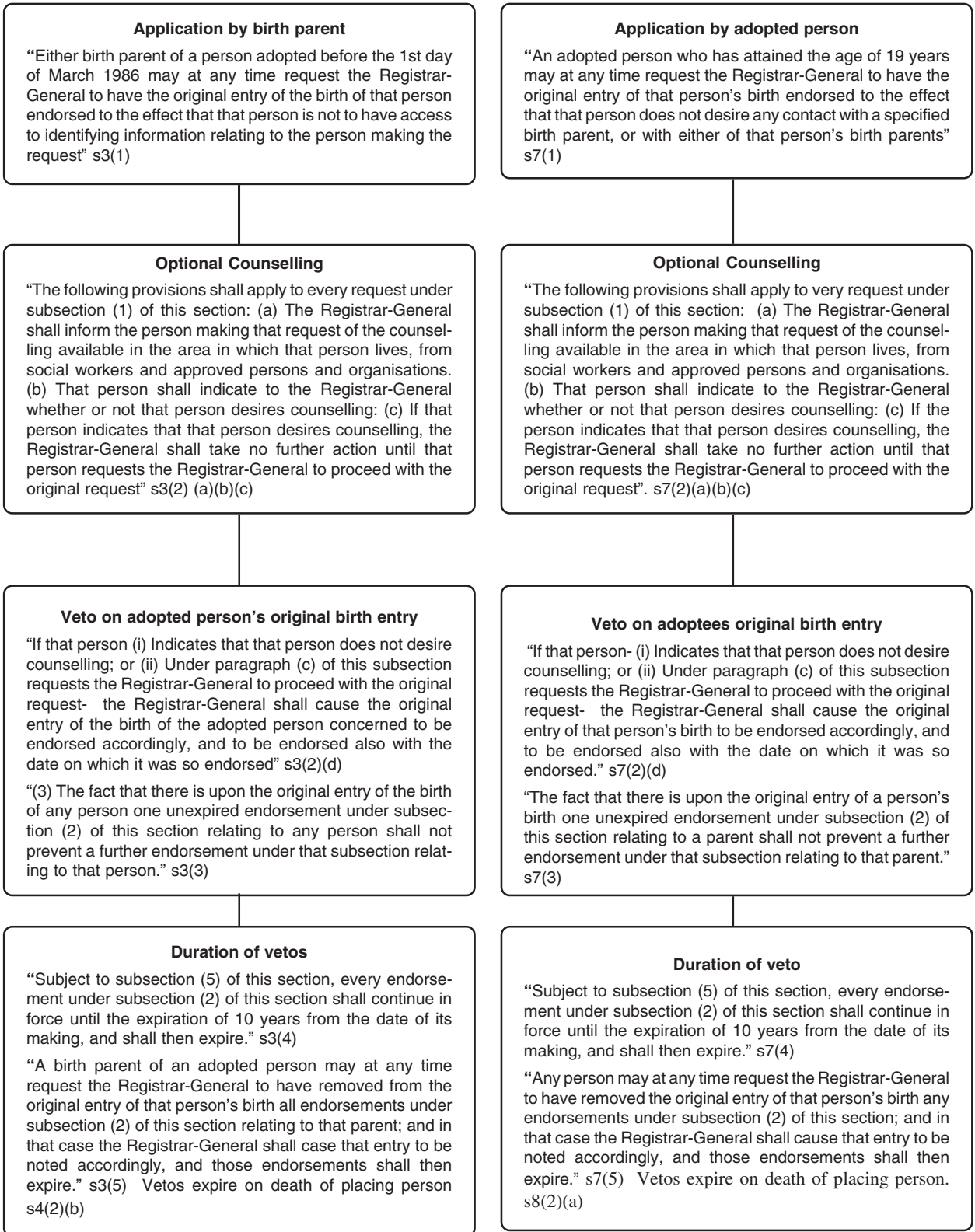
There can be little doubt that a counsellor providing therapeutic counselling to a client would be held to owe a duty of confidentiality towards that client, even though the counselling was provided without payment and as part of a statutory counselling provision. If adoption counselling is restricted to information giving, then it could be argued that no position of trust is established between counsellor and client. Support for this view might be found in the fact that there is no statutory obligation of confidentiality on adoption counsellors: cf Family Proceedings Act 1980 s 18(3); Children, Young Persons, and Their Families Act 1989 s 77(2); Domestic Violence Act 1995 s43.

There is one clear situation in which a counsellor is entitled (but not bound) to breach client confidentiality. No civil, criminal, or disciplinary proceedings shall be against any person in respect of the disclosure or supply in good faith by that person of information provided to a CYPS social worker or the police, where the person providing the information believes that a child or young person under 17 years has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived: Children, Young Persons, and Their Families Act 1989 ss 15 and 16.

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp382-411. K.17-18. (20/6/02) Brooker's

VETO IDENTIFYING INFORMATION

Adult Adoption Information Act 1985 Sections 3 and 7



Note. Birth Parents can only place vetos on adoptions made before 1/3/1986 s3. Adoptees adopted after 28/2/1986 have access of right at age 20+ to their original birth certificate s6. Adoptees aged 19+ may at any time place a veto re Birth Parent access to their birth entry. s7. **Identifying Information** For purposes of the Adult Adoption Information Act 1985 is defined as: "Identifying information", in relation to any person, means that person's name or address; and includes any information that is likely to enable any other person to ascertain that person's name or address." s2.

VETOES

Definition

A veto is an endorsement on the original birth entry of an adoptee to restrict access to identifying information. Any adoptee or birthparent thereof applying for information under the Adult Adoption Information Act 1985, will not be given identifying information concerning the person who placed the veto.

Origin

When 1978 Adoption Amendment Bill No.74-1 was lost, it was obvious that to gain the support of Parliament extra protection measures were needed. I drew up a proposal, which I presented at the Government sponsored Human Rights Conference on the Rights of the Child, Christchurch 1979. The paper "Status of Adopted Children Regarding Access to their Origins" proposed a veto provision that would (a) Give a level of protection that could satisfy Parliament. (b) Would enable more simpler legislation than the 1978 Bill. The proposal was included in the 1979 Bill and played a decisive role in the passing of the Adult Adoption Information Act 1985. Without the veto provision, at that time, there would have been no hope of obtaining a majority vote in the Parliament.

Non veto countries

The message from England was a veto system was unnecessary. They had no veto, after 10,000 adoptee applications the Registrar-General reported no significant difficulties. Scotland was the same after 48 years experience. I placed the official reports from these countries before the Select Committee, but to no avail. Members of Parliament claimed New Zealand was a very different situation, the English experience was not applicable. Although they could not identify any sociological or legislative difference that would give such radically different results, they remained adamant in their belief. Unless the veto measure was included they would vote the Bill out. Hence the New Zealand veto measure was only included as an action of political necessity.

Veto no guarantee you can't be found

There is no guarantee a birth mother or adoptee will not discover the truth. Social workers and solicitors in the past have given such false assurances. At the implementation of the Adult Adoption Information Act 1985 it was officially acknowledged "Does placing a veto mean that I can never be found? Placing a veto on the birth registration is not a guarantee that you will never be found. Some adopted people and birthparents can already find the other party. This will continue in the future. To do the tracing they use details they have learned quite lawfully. This means that total secrecy could never be assured in the past and it cannot be assured in the future." 'Adult Adoption Information Act 1985 Your Rights' Birthlink. Departments of Justice and Social Welfare.

Independent counsellors statistics

40 Counsellors as at April 1997. In the period 18/4/1995-8/4/1997 conducted 446 interviews, at cost of \$35 each total \$15,610.

Adult Adoption Information Act 1985

Veto by birth parent s3

— Application

Either birthparent, may request the Registrar-General to endorse the adoptees original birth entry, that the adoptee is not to have access to identifying information relating to the birth parent placing the veto.

— Adoptions before 1/3/1986

Veto provisions by birth parents can only be applied to persons adopted before the 1st of March 1986. s3(1). For persons adopted under the Adoption Act 1955* it is the date of the final order, not the interim order, that applies to these provisions. *s15(1)(d).

— Adoptions after 28/2/1986

For persons adopted after 28th of February 1986 there are no veto provisions available to birth parents, these adoptees will receive their identifying information of right, once adult. s4(1)(d)

— Optional counselling

Birthparents applying for a veto are informed of the availability of counselling. If they accept counselling the Registrar-General will await further instruction from them after counselling. If counselling is declined the Registrar-General proceeds with endorsement of the adoptees original birth entry. s3(2)

— Duration of veto 10 years

A veto shall continue in force until the expiration of 10 years from the date of its making, and shall then expire s3(4).

— Lifting veto

Any birthparent who has placed a veto may request the Registrar-General to have the endorsement removed from the adoptees original birth entry. The entry shall be noted accordingly, and the endorsement shall expire s3(5). For the period 1986-1996, 102 vetos placed by birth parents were lifted.

— Renewing veto

Any birthparent may renew their veto at any time s3(1). Provided a veto is renewed at least once every ten years it can be kept in place indefinitely.

— Birth parents death- veto expires

On the death of the birthparent, any unexpired veto placed by that birthparent is treated as expired s4(2)(b) s9(3)(b). However there is a problem. There is no system in place whereby on the death of the birth parent the veto is lifted. The veto remains on the adoptees original birth entry (a) Until it expires at 10 years, or (b) The person who placed it lifts it - rather difficult when they are dead, or (c) Someone establishes to the satisfaction of the Registrar-General that the person is dead. The Registrar-General takes the stand that the onus is on the adoptee to prove that the birthparent who placed the veto is now dead*. Note that

the veto is not invalidated on the death of the person, but only at such time as the Registrar-General is *satisfied* that the person is dead. When an adoptee applies and there is an unexpired veto, they are simply informed of the fact and normally no check is made to see if the birthparent has died. Adoptees find themselves in a no win situation. In order to establish if the birthparent is dead, they need the name, however they are not allowed to know the name. If the adoptee knew the name they would not be applying. The only options are (a) Make a special request to the Registrar-General to check the records. (b) Apply to a family Court Judge under the Adoption Act s23(3)(b) on 'special grounds'. *Onus re proof of death. Under the Privacy Act 1993 Principle 8; onus rests with the Registrar-General, that requires records be kept updated.

Veto by adult adoptee s7

— Application

Any adopted person who has attained the age of **19 years** may request the Registrar-General to have their original birth entry endorsed to the effect that that person does not desire any contact with a specified birth parent, or with either of their birth parents. s7(1)

— No application time limit

Whereas a birthparent can-not place a veto endorsement on the adoptees original birth entry, if adopted after the 28th February 1986, no such restriction applies to adoptees. Any adoptee of at least 19 years of age, no matter when adopted may place a veto on release of their identifying information.

— Adoptees have a second veto

"One difference in the rights of the two parties is that adoptees are offered the right of a second veto. When a birthparent approaches the Department of Social Welfare, the Department checks to see if a veto is in place. If not, a search is conducted. The birthparent is informed when their child has been located and asks if they would like an approach to be made on their behalf, and what message they would like conveyed. DSW then tells the adoptee of the request and then waits for a response. Not until the adoptee has given their consent can identifying information be released to the birthparent. This second veto is necessary to protect the right of privacy of those individuals who have not been told they are adopted, and thus have not had the opportunity to lodge a veto on the departmental files. If DSW is unable to trace an adoptee, the birthparent is provided with their name, and is legally entitled to conduct a personal search." Kenworthy 1992 p3

— Optional Counselling

Adoptees applying for a veto are informed of the availability of optional counselling. If they accept counselling the Registrar-General will await further instruction from them after counselling. If counselling is declined the Registrar-General proceeds with endorsement of the adoptees original birth entry. s7(2)

— Duration of veto

10 years, but the adoptee who placed the veto may request the Registrar-General to have the endorsement removed

Adoptee Placed Vetos Chart No.10

Preston study 2000 birthmothers encountered 84 vetos

Adoptee		Year		Total Vetos 84	
Birth Yr	Female	Male	Female	Male	
1952	-	2	1962	2	-
1953	-	-	1963	5	3
1954	2	1	1964	12	-
1955	-	1	1965	10	3
1956	1	2	1966	5	4
1957	1	-	1967	1	2
1958	2	-	1968	4	1
1959	3	3	1969	1	-
1960	2	5	Total	56	28
1961	5	-			

Of 84 birthmothers vetoed by the adoptee, 16 were married to the other birthparent, and usually had full siblings. 6 had borne no other children, two had adopted children. 5 had placed more than one child for adoption. **Source** Preston 1990 p9

from their original birth entry, it shall be noted and the endorsement shall expire. s7(4-5)

— No provision to lift veto on death

With a birthparent's veto, once the Registrar-General is satisfied that the birth parent has died, the veto is treated as expired. There is no such provision for lifting an adoptee's veto on their death.

— Renewing a veto

Any adoptee may renew their veto at any time s7(3). Provided a veto is renewed at least once every ten years it can be kept in place indefinitely.

DSW Adoptions Information Manual

"Restrictions on access to identifying information S3 & s7 Birthparents whose names are entered on the original birth registration can restrict access to identifying information about themselves (s3) and adopted people 19 years and over can register their wish to have no contact with either or both of their birthparents (s7)

Endorsement on original birth entry is known as veto

3.1 The veto is actually made with a rubber stamp, imprinted on to the original birth entry of the adopted person, at the Registrar-General's Office. It is not imprinted on the original birth entry in the Registry in the district in which the child was originally registered, and it is not recorded in the Children and Young Persons Service. There are different colours of stamps for a birthparent and an adopted person. Each shows the date on which the veto was placed, and there is provision to add to or cancel the veto at any time. If this is not done it will expire after 10 years. The veto will automatically expire if the person who placed it has died. (s.5(3)(b) Adult Adoption Information Act). If the Registrar General is satisfied that the birthparent has died, he may issue an original birth certificate with the birthparent's name on it even though a veto may not have expired.

Only birthparents and adopted people can veto

3.2 Only birthparents of people adopted before 1st March 1986, and adopted people aged 19 and over can ask for a veto to be placed. People who are adopted after 28 Febru-

ary 1986 may register vetos once they are 19, but no similar provision exists for the birthparents of this group.

For the adopted person, the veto may be applied in respect of either or both birthparents, the endorsement having the effect of stating that the adopted person does not desire any contact with the specified birthparent. In practice, it is when the birthparent applies under s8 of the Adult Adoption Information Act, and the Wellington Unit refers the application to the Registrar-General, that the veto has the effect. The adopted person is not contacted by this Service and the name is not passed on to the applicant. If however the adopted person has died, the name can be given. (s8(2)(a)). For the birthparent the veto relates to the child on whose birth entry the endorsement is made, to the effect that the child is not to have access to identifying information relating to that parent. i.e. when the adopted person applies for an original birth certificate, that birthparent's name will not be included on it.

Note A veto can only apply to a birthparent whose name is on the birth entry. If a birthfather's name is not on the birth entry there is no name to endorse.

Veto procedure same for birthparents and adopted persons

3.3 To place a veto, the adopted person or birthparent writes to: The Registrar-General P.O.Box 31-115 Lower Hutt, giving the necessary facts to allow the birth entry to be located. For adopted people, these are the adoptive name in full, date and place of birth, and adoptive parent's names. For birthparents, they are the mother's name at the time of the birth, (and father's if applicable), the sex of the child, the name given the child, if any, the date and place of birth. If some of these details have been forgotten, the Registrar-General's Office will search using the best information that can be provided.

Registrar-General must advise counselling available but not mandatory

3.3.1 The Registrar-General advises applicant of counselling services available from social workers and independent counsellors. If the applicant advises the Registrar-General that she or he does want counselling but does not confirm that the veto should be entered, or does not reply at all, the Registrar-General takes no further action until the applicant makes her or his wishes known. If applicant advises the Registrar-General that counselling is not wanted, or simply reiterates that the veto be entered, the Registrar-General endorses the original birth entry accordingly. This effectively means that an applicant wishing to place a veto is required to contact the Registrar-General twice, *unless*, when they first apply, they advise the Registrar-General that they are aware of the counselling available but want the veto to be placed anyway. It is important to ensure that anyone intending to place a veto is aware of these provisions.

The counselling interview

3.4 Counselling with respect to placing vetos is available, but not mandatory. It can be given in person or on the phone, by a social worker from the Adoption Information and Services Unit or by an Independent Counsellor. The counselling is not a means of influencing the birthparent or adopted person in any way, but rather of trying to ensure

that a veto is the best way of achieving the purpose that person has in mind.

The veto and the adopted person

3.4.1 It may be useful for the adopted person to know the differences in the Adult Adoption Information Act between applications from birthparents and from adopted people. Whereas the adopted person can obtain an original birth certificate (if no veto), and have full control of the search and contact process, the birthparent has to apply through this Department, for the adopted person's permission for his or her name to be given. In practice this means that if the adopted person places a veto, and the birthparent applies, we will not approach the adopted person. He or she will not know that there has been any enquiry. If, however, there is no veto, we will endeavour to trace and approach the adopted person, and ask if he or she wishes to have any communication. He or she can then give a considered reply according to the circumstances.

The veto and the birthparent

3.4.2 The birthparent, too, may find that a knowledge of procedures will help in determining the best course of action, to achieve the degree of privacy they are seeking. It may be that an application under S8 gives a birthparent more control of the situation, than waiting for the adopted person to act, or than placing a veto and leaving a letter of explanation. Social workers will deal with any approaches for veto counselling with respect and sensitivity. Birthparents who placed children 20 or 30 years ago did so in a very different social climate. Many still carry the guilt and hurt of that time, and need the acceptance and support of the social worker at what may be a painful and difficult time for them.

Absolute secrecy cannot be guaranteed

3.5 Social workers should warn those intending to place vetos that, while vetos prevent identifying information from being released by the Registrar-General and by this Department, they do not provide absolute protection from identification or contact. Vetos do not prevent a person from applying to the Court for the name of the birthparent under s23 of the Adoption Act 1955, or from obtaining information from solicitors, files or from random sources such as friends and relatives.

Letters of explanation for vetos

3.6 It is possible for those placing a veto to leave a letter with this Service explaining the reasons for the veto to the person whose access to identifying information has been restricted. (Only a few hundred people have done so.) This may help the other person accept and understand the situation, as well as giving the person placing the veto an opportunity to explain their reasons for doing so. Any other non-identifying information about health and genetic history can be usefully included. Such a letter may help maintain that person's privacy, because it is more likely that people, having been given a reason, will respect the other person's wishes. Letters of explanation for vetos are held at the Wellington Adult Adoption Information Unit, and any such letters handed in at local offices should be sent there, clearly identified with the names of both parties at the time of adoption.

When the Registrar-General's Office forwards original birth certificates containing vetos to adult adopted people, the accompanying letter suggests that he or she can enquire to see if a letter of explanation is held by this Service. Adopted people may enquire in writing, quoting the Registrar-General's reference number which appears at the top right hand corner of the letter. This is the number of their original birth certificate. They need to give their full adoptive name (first name(s) and surname), date and place of birth, and the full names of their adoptive parents. They will receive a written reply to their enquiry, along with any letter held. Birthparents do not need to make a separate enquiry to the Wellington Unit because the Unit processes all applications for identifying information received from birth parents. Staff will automatically check for a letter of explanation from the adopted person once they have ascertained that a veto is in place.

Vetos removed before expiry date

3.7 The Registrar-General's Office advises the Wellington Unit of any vetos which are removed before expiry. Wellington searchers will cross-check the list of enquiries received for letters of explanation, and will attempt to notify applicants whose access to identifying information is no longer restricted. Their ability to do this depends on their having a current address for these applicants.

Requests for information from those who place vetos

3.8 Most people who place vetos wish for no further contact. However, in some instances adult adoption information social workers may be required to act as intermediaries where the person who placed the veto has also indicated that she or he would be interested in receiving information about the other party, or having some kind of contact in the future. When carrying out this task, social workers must take care that they do not inadvertently release any identifying information about the person who has placed the veto to the other party.

Adoptees who do not want vetoed OBC sent to them

3.9 S5 of the Adult Adoption Information Act gives the Registrar-General no discretion in this matter. If there is an unexpired endorsement on the original birth entry the Registrar-General 'shall send the applicant an original birth certificate from which all details relating to the birth parent have been omitted.' If an adopted person expresses a wish to have the support of a counsellor when receiving information that has been subject to a veto, she or he may give the only address on the application as c/o (care of) the counsellor of their choice (it will not be effective for the adopted person to give a home address, and request the Registrar-General to send the certificate to the counsellor. - *the law does not allow this*). The certificate must be addressed to the adopted person, and not the counsellor." Adoptions Information Manual CYPS DSW 1995.

Practice

Telephone vetos

From the inception of the Act until 1990, the Registrar-Generals Office allowed vetos to be placed by telephone-

as an alternative to a written application. While it simplified the placing of veto with maximum confidentiality, it had a major weakness. Any adoptive parent or the same sex as the applicant, or any person with the required basic information could phone in purporting to be the adoptee or birth parent and place or lift a veto. The placing of a veto has major ramifications for the persons concerned and should never have been allowed to be placed on the evidence an unsubstantiated phone call. The practice was discontinued in 1990. What was the percentage placed by phone? Also note the about 90% of vetos have been placed by 1990.

Why birth parents place vetos

No reason is required for placing a veto. Experience of with birth parents reveals some reasons.

- 1 They have not told their spouse or children.
- 2 Wish to remain in control of the situation.
- 3 Prevent possible disruption of their family.
- 4 Response to fears generated by opponents of the Adult Adoption Information Act.
- 5 Did not know if they would be able to handle the situation.
- 6 Unresolved grief.
- 7 Unresolved guilt.

Howarth— Impressions why birthmother place a veto

- 1 Some birth mothers have never told their present husband and/or families about the adoption and are concerned about the reaction to an approach from the adoptee.
- 2 Some have shut off the painful experience of relinquishing a child and do not want to risk having to face it again.
- 3 Some feel it is not the right time for contact, particularly if they have teenage children, but may remove the veto in the future.
- 4 For some, placing a veto is their first opportunity to take control of, and have any power in, the adoption situation.
- 5 A small number have placed vetos to prevent the adoptee contacting them out of the blue, but at the same time asking the department to make contact."

Source Ann Howarth 'Reunion' 1988 p160

Iwanek 1991—"Adoption support group members reported that when asked, most birthparents said they placed a veto because:

- 1 they wanted to prevent others close to them from finding out.
- 2 they felt afraid to face the adopted person and be blamed by them
- 3 they placed a veto because there was so much publicity about placing vetos, they felt it was the right thing to do in light of the fearful consequences reported."

Source Mary Iwanek 1991 Thesis Ch.5.

Why adopted persons place a veto

Some reasons given are—

- 1 Do not want to upset their adoptive parents.
- 2 Feeling rejected by the birthparents.

- 3 Unresolved hurt concerning be given up for adoption.
- 4 Pressure from adoptive parents to place a veto.
- 5 I already have one mother I don't need another.
- 6 Apprehension of what they may discover.

Howarth—1988 impressions—

1 Some adoptees have placed vetos because they feel they do not want contact at the present time but may do in the future—particularly for adoptees in their early twenties who are already facing many new things in their lives.

2 Some have been influenced by their adoptive parents, who are, or the adoptee is under the belief that they are, fiercely opposed to contact.

3 Some have a strong sense of having only one set of 'real' parents, their adoptive parents, and do not want to be contacted by their birth parents."

Source Ann Howarth 'Reunion' 1988 p159.

Why people don't place vetos

Much of the focus of vetos has been on reasons why they are placed, but we should also ask why they are not placed? By 1994 after 8 years operation of the Act's veto provisions, 94% of eligible birth mothers had not placed a vetos. And 98.5% of eligible adult adoptees had not placed a vetos. I surveyed 30 adoptees as to why they had not placed a veto, only 2 had given any serious thought about placing a veto. Twelve had thought about what it would be like on the receiving end of a veto, and they would not want to inflict that hurt on anyone. 16 had not given no thought to vetos. All were wanting and find out more information, not to block it. The two that thought seriously about it, one was pressured by their adoptive parents to place a veto. The other felt unresolved anger to the birth mother, a 'giving away' rejection. A veto was a way of hurting back. Neither placed a veto. A few adopted persons may have not placed a veto because under the Act, they have a second right of veto if contacted by the department on behalf of a birth parent. Under the Act, all applications by birth parents to contact an adopted person must be made through a departmental intermediary. KCG

Should vetos be allowed ?

Jill Kennard's research on adult adoptees applying under the Act, of the sample, "94, (64.8%) thought vetos should be allowed while 47 (32.4%) thought they should not. Four were not sure. This supports the claim that adopted people are in a very vulnerable position and they frequently put the interests of both their adoptive parents and birth parents before their own... The willingness of many adopted people to see the birthparents' right to privacy as being of more importance than their own right to information is illustrated by the 64.8% of adopted people in this study who thought vetos should be allowed. Only 2.1% of the people in the study had placed a veto themselves." Kennard 1991 pp113-114.

The apparent ambiguity of adoptee response needs to be looked at in the context the National Statistics that only 1.5% ever take veto action. "To the question, do you think veto rights should exist? Most counsellors, social workers

and support group people said 'No'. It denies the adopted persons' basic rights to have essential information about themselves and is discriminatory."

Source Mary Iwanek 1991 Thesis Ch.5.

How many people encounter vetos

— Birth parent placed vetos

The statistical chances of an adoptee encountering a birth mother placed veto in 1986 was 5.1% or 1 in 20, and in 1994 was 4% or 1 in 25.

— Adoptee placed vetos

The statistical chances of a birth parent encountering an adoptee placed veto as at 1986 was 5.1% or 1 in 1994 are 1 in 66. See Chart 14.

One study has found evidence of a significantly higher strike rates. The Preston study of 2000 applications by birthparents, eighty four adopted persons placed vetos were encountered. This is a veto strike rate was 4.1% or 1 in 24 of the 2,000 sample. This is three times higher than the average statistical rate for adoptee placed vetos. At the time of her study only 861 vetos had been placed by adoptees with the Registrar-General, 84 of these turned up in her study of 2000 birthparents. That is a strike rate of 9.75% of the total 861 vetos lodged. I do not know of any simple explanation of this high strike rate. Suffice to say that (a) The high strike rate may effect only the earlier applicants under the Act. (b) On the law of averages it would be compensated for by lower than expected strike rates on later applications. Preston's study of 2000 applications by birthparents under section 8; 84 adoptee vetos were encountered, 56 from female, 28 from male adoptees. The birth dates of these adoptees ranged evenly from 1954-1969 except for a brief peak at 1964-1965 corresponding with adoptees turning 20 at a time of high publicity re the Adult Adoption Information Act 1985.

Effect of encountering vetos

Adopted persons

The reactions of adoptees to a birthparent veto may be—

- 1 Shock and numbness that it has happened to them.
- 2 Hurt, centered on rejection. The veto is experienced as a second rejection, a deliberate, calculated action by the birthparent, a personal hammer blow delivered by full weight of the legal and bureaucratic system.
- 3 Bewilderment. Why? A continued turmoil of feelings and attempts at rationalisation.
- 4 Anger focused on the birthparent delivering the hurt and/or the system that sustains the hurt, ensuring continued genealogical bewilderment.
- 5 A Search is pursued with such tenacity and determination that will never end until they known the truth.

Birthparents

Reactions on encountering an adoptee placed veto are little known due to lack of case studies. Those I know of reveal some quite different reactions to adoptees.

- 1 There was little hurt or anger as they had given up the child, expected a reaction. They accepted the veto.

- 2 Unfinished grief was triggered.
- 3 No real effort to search in most cases, inclined to back off.
- 4 They wonder if the adoptive parents were a factor in placing the veto? What was the adoptee told about them? I believe the changing social climate, and increased support from birthparent groups, in future more birthmothers will crack vetos.

Rockel and Ryburn—"The fear that their birthparent has registered a veto is strong in many people. Finding that they have done so is a devastating blow. Some of the ways people are informed of a veto add to the shock of it. A vetoed birth certificate is not sent through a counsellor, but mailed direct to the applicant. The vetoed certificate is identical to the one received by other adopted people, but in the space for details about the birth parent there is a statement giving the date the veto was placed. A covering letter explains that the veto expires after ten years unless it is renewed, and that it lapses with the death of the person who placed it. This information is of little use to the adopted person, who is not notified if the veto has in fact expired, lapsed or even been withdrawn. After the initial hurt and shock, veto recipients often become angrily determined to find a way round the veto, especially if no letter has been provided by the birthparent to explain their reasons for it. They find the decision cruelly unfair because it seems to take no account of their needs or feelings. Along with the bloody-mindedness goes a strong will to succeed, and because there have always been other sources of information about origins, many veto recipients do manage to trace their birth parents. In many cases where this happens, they are able to put the vetoing parent's fears to rest, and both enjoy the benefits of contact."

Source 'Adoption Today' Rockel and Ryburn 1988 pp64-66.

Breaking vetos

No statute in New Zealand has ever made it illegal for an adoptee or their birthparents to search for each other. Neither does the Adult Adoption Information Act make it illegal to continue a search in spite of a veto, nor does it or any other adoption statute in our history guarantee anonymity for those who desire it.

Belief that anonymity has been guaranteed by law is a part of our adoption mythology that has no statutory foundation.

It is a known fact that vetos have failed to be a detriment to the determined searcher. Why is this so? Anger and very strong feelings are generated by a veto and may trigger the most determined search of their life- they are prepared to shift heaven and hell to know the truth. The adoptive parents nowadays, seeing the hurt, often come on board the search. Every bit of information is checked, they seek expert advice from genealogists, they often join support groups that have a fund of knowledge and experience from others that have successfully searched. The search gains momentum, it may take even a year or two but in the end about 8 out of 10 crack the veto. The good news is that the search that begins in anger normally ends in resolve, and an

ongoing relationship. The sadness is that the hurt and upheavals were so unnecessary, a legacy of the past fears or ignorance of policy makers and politicians.

Very high success rate

Iwanek—"A survey of several adoption support groups, with members who received vetos shows that, from the 76 adopted people who received a veto on their birth certificates, 75 embarked on a search. It seems that receiving a veto on a birth certificate without any written explanation, only acts as an encouragement to search more intensively. From the 75 who embarked on a search, 72 were able to trace their birthmother successfully within six months. From the 72 who traced their birthmothers, 69 made contact, the other three at this stage being satisfied with the information only. From the 69, 64 initiated contact personally with their birthparents and five used mediators. From the 64 who made personal contact, three had requests for contact declined, the others had a positive outcome. Those who used mediators had two positive outcomes and three declined contact."

Source Mary Iwanek 1991 Thesis Ch.5.

May involve birth relatives

"Further concern was expressed that some adopted people who receive a veto take this as an indicator that it is the birthmother who does not want contact. Therefore, when they embark on a search and trace her whereabouts, rather than making contact with the birthmother, they make contact with other members of the family. This is likely to be much more of an upheaval to the birthmother than if she had met the applicant."

Source Mary Iwanek 1991 Thesis Ch.5.

Response to a broken veto

Surprisingly most establish a satisfactory relationship. The reasons—

- 1 The original reasons for the veto may no longer be relevant.
- 2 The veto was intended to insure control, they were not adverse to contact.
- 3 Previous anxieties have been reduced by knowledge of successful reunions.
- 4 Most adoptees use a cautious approach.
- 5 They normally discover a strong likeness in personality, appearance and interests, that creates mutual attraction.

Veto endorsement detail

Upon the adoptees original birth entry is endorsed "The date of endorsement and due date of expiry". Adult Adoption Information Act 1985 s7(2)(d)

What happens when you encounter a veto

If the birthparent who placed the veto is the only birth parent named in the entry. The Registrar-General will notify you direct, along with a copy of the original birth entry but omitting any identifying reference to the birth

parent who placed the veto. It will have your birth Christian names, if named, but not your birth surname.

Expiry of vetos what will happen in 1996?

Eighty two percent of vetos were placed in the first 10 months operation of the Act, commencing March 1986. This means, a corresponding 82% of vetos are due to expire in the ten months March to December 1996. See Chart No.13 p430. A major question is what will happen? How many will renew their veto? Time alone will tell. My own guess is that a high proportion, as much as 75%, will not renew their vetos. My reasons are —

— A major reason for placing vetos was that the spouse or family had not been told of the adopted out child.

— Unwanted privacy invasion.

— Fears of what might happen.

— Wanting to keep control of the situation. However, in the intervening 10 years many things have happened—

1 Tremendous social changes in attitudes favouring adoption openness and open adoption.

2 Most people now know of reunions with very positive results.

3 The birth parents' children who were teenagers in 1986 are now in their twenties, most have left home and married.

4 Most birth parents have now told their spouses, helped by changed social attitudes.

5 Vetos have not proved an effective detriment to the determined searcher.

6 Birth parents cannot apply a veto on any adoption made after 28th February 1986.

7 Most vetos that have been broken have led to positive relationships.

8 There is no longer the fear of what adoptees might do.

9 Most birth parents no longer feel they must control the possibility of reunion, they feel confident they can deal with it, and expect it to happen. The new social climate and understanding of adoption all indicate that vetos will be fast declining phenomena.

Adoption Act 1955 s23 and veto

Under s23 a person may apply for access to adoption records, 'on any other special grounds'. There have been over 50 successful cases, mostly on behalf of adoptees. The question arises, 'Can a veto under the Adult Adoption Information Act block access under the Adoption Act 1955 s23?'. The answer is no. The veto is effective only against information released under the Adult Adoption Information Act. An application under section 23 'on special grounds' for access to a Court adoption record is a quite different procedure under a different Act. Once a special ground is established to the satisfaction of the Judge, the granting of an inspection order rests entirely with that Judge's discretion.

Evaluation

Vetos are ineffectual

The information collected on vetos reveals that the veto system is ineffective, many people make contact despite a veto. The reasons appear to be:

1 Many adopted people already have information from a variety of sources which leads them to their birthparents.

2 Adoptive parents who, at time of placement, ascertained the name of the birthparent(s), are able to pass this on to the adoptee.

3 Many birthmothers, when signing the consent form, sighted the name of the adoptive parents on the form and have now traced the present whereabouts of their child.

4 With private adoptions, arranged by a third party, names were often exchanged at the time of adoption.

Iwanek—

"Adoption support group members reported that when asked, most birthparents said they placed a veto because:

1 they wanted to prevent others close to them from finding out

2 they felt afraid to face the adopted person and be blamed by them

3 they placed a veto because there was so much publicity about placing vetos, they felt it was the right thing to do in light of the fearful consequences reported. What is happening in practice is that because the birthmother placed a veto, she has placed herself in more "danger" of being found out than if she had not placed a veto. Those involved with the implementation of the Act suggest that birthparents should embark on a search themselves to report to the adopted person that they do not wish other people to find out. The veto system is proving to be unworkable, it raises expectations that can never be met because people have, or can get, information. It reinforces the myth that secrets can be held forever.

A veto contact register does not prevent identifying information from being given out, but provides a place where an adopted person or birthparent can make their wishes known with regard to contact, or leave a letter to explain their situation. This is more likely to provide protection, as most people do not wish to upset the other party. Currently, the system whereby people are invited to leave a letter of explanation with the Department of Social Welfare is only receiving few responses. Partly because it is an ad hoc arrangement not catered for in the Act.

A number of suggestions have been made as to how the system could be changed. Vetos should only be placed in writing. Some counsellors report that the fact some vetos may have been placed by telephone by unidentified persons has been of great concern to applicants. They believe it is possible through administrative procedures to prohibit the placing of vetos by phone and only accept those in writing. The Registrar-General has since stopped accepting vetos by telephone. Letters of explaining to any applicant why a veto has been placed should be encouraged."

Source Mary Iwanek 1991 Thesis Ch.5.ek 1991

Type of adoptee placing veto

Little is known. Preston found in her study of 2000 applications by birth parents under s8, eighty four adoptee vetos were encountered, 56 from female, 28 from male adoptees. The birth dates of these adoptees ranged evenly from 1954-1969 except for a brief peak at 1964-1965- corresponding with adoptees turning 20 at the time high publicity re Adult Adoption Information Act 1985.

Source. Eileen Preston. Paper May 1990 Adoption Conference, Victoria. University of Wellington.

Statistics

Veto statistics are produced by the Department of Justice, Registrar-General's Office. For adoptee placed vetos, there are monthly returns of male, female, and cancelled vetos- see Table 17 p431. For birth parent placed vetos, there are monthly returns for birth mothers, fathers, and cancelled vetos- see Table 18

Case law**Unauthorised disclosure when veto in place****1993 Heron J Wellington HC *G v Attorney-General***

The case involved the unauthorised release of identifying information by DSW concerning a birth mother, who had placed a veto. The plaintiff had commenced proceedings arising out of the admitted unauthorised release of information to her adult son as to her identity pursuant to the available procedures under the Adult Adoption Information Act 1985. Four causes of action were pleaded- a breach of statutory duty, negligence, breach of contract and breach of confidence. The Attorney-General applied to have the statement of claim struck out. He relied for support on s6(2) of the Crown Proceedings Act 1950. Two issues were involved, firstly whether, independent of a breach of statutory duty the defendant had committed a tort in accordance with the law of New Zealand in releasing the information and secondly whether any statutory duty owed by the department and its employee is binding on persons other than the Crown and its officers as required before an action can be brought against the Crown by s6(2) of the Crown Proceedings Act.

Held (declining to strike out statement of claim)

1 The action for breach of confidence clearly existed and was governed by s6(1) of the Crown proceedings Act and as it could have been brought against a private person of full age and capacity, it could therefore be brought against the Crown

2 The action in negligence was more difficult... The cause of action in negligence was therefore to remain. On the facts pleaded here it would seem that had the Privacy Act 1993 been in force in 1989 a remedy under the Act would have been available. [1994] NZFLR 385

Australian New South Wales veto system

The NSW veto system consists of a no-contact veto. Where a birth parent or an adoptee has placed a veto, the identifying information is given to the applicant, subject to them signing a no contact veto. They undertake not to make any contact with the person they have obtained the identifying

information on, under the provisions of the NSW Adoption Information Act 1990 s28. There has been a very high compliance with the veto no-contact provision.

Chance of encountering vetos as at Dec 1996**Vetos placed by birthparent on adopted person**

As at end of 1996, in New Zealand there were approximately 84,000 adult adoptees, with approx 1,000 active vetos placed by birthparents. Thus the chance of an adult adoptee encountering a veto is now down to 1 chance in 84 or 1.2%. See Chart 17

Vetos placed by adult adoptee on birthmother

At the end of 1996 there were <84,000 birthmothers of adult adoptees, with approx 460 active vetos placed by adult adoptees. The chance of birthmother encountering an adoptee placed veto is 1 chance in 182 or 0.55%.

Veto counselling statistics

DSW CYPS provides optional counselling for birth parents placing vetos under s3(2), for adoptees placing vetos under s7(2) and also for persons encountering a veto. The statistics for number of veto counselling actions are 1995=204. 1996=397.

Registrar-General's policy advice to staff on renewal of vetoes**Instructions to Staff "3. Expiry of Vetoes;**

Requesting and Placing of Intitial Vetoes after 1 September 1986; Interaction with Simultaneous Application of Original Birth Certificate.

A veto expires on its 10th year anniversary date. If a person (eg a birth parent of a person adopted before 1st March 1986) comes in to the Central Registry on the very next day and asks for a renewal of the veto they had placed, this must be treated as a new request (see below), and they must be told of the counselling available and given the opportunity to choose counselling or not take it.

Model Example: Birth Parent wishing to place veto:

Persons adopted before 1st March 1986:

— Where eg a birth parent of a person adopted out before 1 March 1986 comes forward now and requests an intitial veto to be placed, and then within a day or so the adopted person (aged 20 or over) comes forward and requests an original birth certificate, the following procedures apply:

(a) Registrar-General advises the adopted person ("applicant") in writing of the counselling services available, where the applicant lives in New Zealand, and of the fact that, except where the person lives out of NZ, counselling is required before the Original Birth Certificate is given to the applicant. (If it appears that the applicant is to be permanently resident outside NZ, the Registrar-General is required to send him/her an Original Birth Certificate and the address of the Director-General of Social Welfare).

(b) The applicant is required to advise in writing from whom s/he wishes to take counselling. Once this notice is given, the Original Birth Certificate is sent to the person/organisation of the applicant's choice, and will be released

after counselling. *This gives Central Registry some small amount of time to process the parent's request for the veto to be placed.*

(c) If the veto is placed before the adopted person returns the notice stating a counsellor, then the adopted person must not be given access to identifying information relating to the vetoing parent. That means omitting all details relating to that birth parent from the Original Birth Certificate sent to the adopted person.

(d) If, however, the parent requesting the veto indicated that they desired counselling, and acting upon that then the Registrar-General cannot take any further action on the request until that person asks the Registrar-General to proceed with the original request (s3(2)(c). Therefore it may come down to a race between the parent lodging the veto and the adopted person seeking access. Technically, if the adopted person returns a notice specifying a nominated counsellor before the parent returns to request the Registrar-General to proceed, then the Registrar General should send an Original Birth Certificate to the adopted person's counsellor with the details relating to birth parent included.

Notwithstanding this technical approach, it may be a more (legally) defensible approach to treat the veto as pending, and not give out the identifying details on the Original Birth Certificate.

If the adopted person comes into Central Registry and requests access to an Original Birth Certificate on the day after the last veto expires, and then following that the birth parent comes in to place a new veto, then again it may be an issue about which party can complete their requirements the fastest.

Otherwise it may be possible to treat the veto as pending again; but this approach is less justifiable in these circumstances."

Source Registrar Generals Policy Advice to staff relating to renewal of vetos as at 1996, obtained under Official Information Act. KCG

Comment

I have several concerns regarding the above policy instructions of the Registrar-General.

(1) There is no provision in the Act for treating applications as pending and thereby preventing an application by a second person being processed until completion of the first application.

(2) If the pending argument is applied, then it should apply consistently to all applicants, and the first application be processed before the second application.

(3) The pending procedure is inconsistently applied in the examples given.

(4) Once the adoptee applicant has nominated a counsellor then the Original Birth Certificate is to be sent to that counsellor. The Registrar-General can not treat this as a 'technicality' it is a requirement of the Act, where there is no valid veto in place —

Adult Adoption Information Act 1985 "s5(2)(b) If the applicant

notifies the Registrar-General in writing that the applicant desires counselling from a social worker or a specified approved person or organisation, the Registrar-General shall *forthwith* send an original birth certificate to- (i) The appropriate office of the Department; or (ii) The approved person or organisation specified by the applicant as the case requires: (c) The person or organisation to whom or to which an original birth certificate is sent under paragraph (b) of this subsection shall release to the applicant after the applicant has received counselling:"

The "forthwith" requirement of Act ' leaves no grounds for procrastination by the Registrar-General. KCG

Notification of date of veto expiry

Where an applicant for identifying information is blocked by a veto the Registrar-General must inform the applicant. "s5

(1) The Registrar-General shall inform every applicant to whom this subsection is applied by section 4(1)(b) of this Act of the existence, effect, and date of expiry of the endorsements concerned" Adult Adoption Information Act 1985.

(a) Notification of the veto expiry date is a requirement of the Act, not a matter for policy discretion.

(b) It appears that for several years the Registrar-General has omitted to notify the veto expiry date, if so this would be in non-compliance with the Act. This is a significant omission as the date of expiry of a veto can be very important to the applicant who can then lodge and application for access to their Original Birth Certificate .

Power of birth parent to restrict access to information

K4 A birth parent can place a restriction on access to the original birth registration by the adopted child and others, and prevent information being given out which might lead to the birth parent being identified and traced.

Under s 3(1) Adult Adoption Information Act 1985, any birth parent (as defined in s 2) of a child born before 1 March 1986 who has been given in adoption may make a restriction request to the Registrar-General by telephoning or writing to the RegistrarGeneral's office, if that parent's name appears on the original birth registration. Contact the adult adoption information officer, Office of the Registrar-General of Births and Deaths, PO Box 31-115, Lower Hutt (Phone-04-569 4489). The request should name the child and the birth parent(s) and give the date and place of the child's birth. It should ask that the original birth registration of the child be endorsed to the effect that the adopted child is not to have access to information identifying the birth parent making the request: s 3(1); Birthlink, Adult Adoption Information Act 1985: Your Rights, SW434A, Department of Social Welfare and Department of Justice, 1985.

A birth father whose name is not on the original birth entry cannot make a restriction request, nor can an adoptive parent by an earlier adoption who has ceased to be a parent as a result of the current adoption order: s 3(1) and definition of "birth parent" in s 2 Adult Adoption Information Act.

On receiving a restriction request, the Registrar-General must inform the birth parent making the request of the counselling available from Department of Social Welfare social workers or from approved adoption counsellors in the area where the birth parent lives. For approved counsellors and organisations, see s 12(1) Adult Adoption Information Act 1985 and K18. The birth parent must tell the Registrar-General whether he or she desires counselling, if not, the Registrar-General endorses the original birth record with the restriction: s 3(2)(b)-(d) Adult Adoption Information Act. It is estimated that over 2,000 restriction requests have been made by birth parents, representing less than 2 percent of all adoptions.

An endorsement remains in force for 10 years from the date it is made unless the birth parent earlier dies or requests that it be removed: s 3(4). A second or further endorsement can be requested within or after the 10 year period: s 3(3).

The Act does not indicate whose responsibility it is to establish whether a birth parent who has placed a veto has died. The Registrar-General has custody of the records of New Zealand deaths and is able to make a search of these records. Adoptees requesting a copy of the original birth certificate should also request that, if a veto has been placed by a birth parent, the Registrar-General search to ascertain whether that birth parent has died.

A veto expires on its 10th anniversary date. There have been complaints by adoptees that their original birth certificates have been held back where a veto has expired. The suggestion has been made that the Registrar-General's office is allowing a grace period after expiry in anticipation that the veto may be renewed. There is no statutory authority for such a practice.

A birth parent who vetoes access to the original birth certificate- can give the Department of Social Welfare a letter to be placed on the adoption file which gives reasons for the veto. This may help the adoptee understand why the birth parent does not want to have contact, and may lessen the sense of rejection that the adoptee might otherwise feel. See Birthlink, Adult Adoption Information Act 1985: Your Rights.

Placing a veto does not guarantee that a birth parent will not be identified or traced. There are other means available to adopted persons seeking to establish a birth parent's identity and whereabouts.

The right of a birth parent to restrict information as to the child's family of origin seems to contravene arts 8 and 9 United Nations Convention on the Rights of the Child (1989) Annexure A1.

Source *Trapski's Family Law* Vol. 5. 'Adoption' pp378-379 K4. (27/7/00) Brooker's

Power of the Veto

Gary Coles— "Legislation in New Zealand and Australia allows members of the family of origin separated by adoption to have access to identifying information. This access has been granted in the last two decades, but it has come with, in most cases, a proviso - the veto. People in the Northern Hemisphere are perhaps unfamiliar with the veto. The following outlines the operation of the veto in New Zealand and Australia. The detail is provided to deter legislators elsewhere from giving and taking, ie compromising the opening of records with the parallel introduction of a veto. p175

Extent of veto legislation

In New Zealand and in all Australian states except Victoria, adoption information Acts contain specific veto provisions for adopted persons and birth parents. The veto restricts access to identifying information; it is seen to afford protection to persons who do not wish to participate in reunion. The rationale behind the veto is that birth mothers (and fathers) may not wish their privacy to be invaded, if the birth had been private and secret. For adopted persons, because adoption had not been a choice that they had played a part in, they could now choose whether or not they wished their 'new' identity to be revealed to their birth parents. Adopted persons were also considered to be worthy of additional protection because their adoptive parents may have decided not to tell them they were adopted. These intentions have, however, had serious ramifications. Protecting the adopted person beyond the age of adulthood treats them as a perpetual child. Adults who do not wish to have an association with other adults can simply say 'no'. Any demonstration of threatening behaviour that undermines this stated position is protected by harassment legislation. Yet adopted persons and birth parents are considered to need additional protection, a demeaning stance based solely on the circumstance of birth. p175

As ethicist Trevor Jordan writes, in support of a submission to the Minister of Human Services that advocates the removal of the veto from South Australian adoption legislation,

"The bearing of children is a social act and brings with it responsibility. Circumstances surrounding the birth, like other family matters, may rightly be considered private; however, this can never be legitimately construed to imply an enforced secrecy between an individual and their birth parent.- Exchange of information or even contact between the parties does not in itself violate the privacy of this primary relationship" 2002 p8.

Further, says Jordan,

"Extending that circle of knowledge beyond the private relationship between an adult adoptee and their birth parent can be negotiated with due care and respect for each other's relationships" (2002, p8) and "Matters of contact and reunion are matters for negotiation between the adults concerned with whatever support and access to services that they may choose" (2002, p7) [emphases in the reference]. Coles p176

Political compromise

In New Zealand, the veto was a compromise added to the legislation to appease the then Prime Minister and thus

make what became the Adult Adoption Information Act 1985 palatable to the majority of Parliamentarians. The Prime Minister opposed the introduction of the Act, claiming its provisions could destroy families. He feared an increase in abortions, because the right of birth mothers to keep the birth of their child a secret would be no longer guaranteed. Under the Act, an adopted person of nineteen years or older can write to the Registrar-General, saying they do not want identifying information to be released in response to an enquiry made via official channels on behalf of one or both of their birth parents. Vetoes placed by birth parents work similarly. In each circumstance, the veto is quite specific in its provisions. It does not prohibit contact; it merely prevents the official release of identifying information from the Government administered birth register. It does not preclude a searcher from seeking this information from other (public) sources, such as libraries and genealogical societies. For some searchers, acquiring this information is sufficient. Others may choose to use the publicly available information to initiate contact, an action that breaks no laws. Because, in New Zealand, the veto frustrates rather than stops an adopted person or birth parent seeking identifying information, the provisions may provide a false sense of security to the person placing the veto. The New Zealand veto has a duration of ten years. It may be lifted at any time, or renewed for further ten year periods. It applies to all adoptions which took place before March 1, 1986. For adoptions that took place after this date, birth parents may not place a veto, but adopted persons, on reaching the age of 19, are able to impose the restriction. p177

Number of vetoes

Iwanek (1998, pp28-29) reports that many of the vetoes in New Zealand were placed during the first six months after the Adult Adoption Information Act 1985 came into effect. From that date until the end of 1996, 3825 vetoes were placed by birth parents, overwhelmingly mothers. One year (ie March 1997) into the second decade of the enactment of the legislation that had included the provision for the veto, there were 993 birth parent-imposed vetoes still in place. For adopted persons, of the 1303 vetoes originally placed, 861 were not renewed at the end of their ten years. Griffith (personal communication, 2003) reports that the figures at the end of 2001 were 735 active vetoes placed by birth parents and 176 placed by adopted persons. I have seen the detail behind these figures. My son's veto in March 1994 was the only one placed by an adopted person during that month. p177

According to Griffith (1991, Section 15, p5), approximately 6 per cent of those who applied for identifying information in New Zealand struck a veto. There is every reason to believe his percentage may have dropped in the last decade, as vetoes were withdrawn or not renewed. Nevertheless, thousands of members of New Zealand birth families have, in some way, been affected by the veto. Frequently, searchers are deterred by the veto and proceed no further. Other searchers endure the impediment presented by the veto and pursue the more difficult path of seeking the necessary information in the public domain. Some, more fortunate, may already have identify-

ing information. p178

Iwanek (1998, p29) has this to say about the veto: "... the veto system has not been effective in what it set out to do since a large number of people made contact despite a veto being in place". She then cites the reasons: "Many adopted people already have information which can lead them to their birth families. Adoptive parents who, at the time of placement, ascertained the name of the birth parent, may pass this on to their children, who, in turn, can search for their birth family". For many birth mothers, they sighted the name of the adoptive parents when signing the consent to adoption and have been able to trace the present whereabouts of their child. This advantage is less likely to be available to birth fathers. p178

In NZ most vetoes can be broken

In the same paper Iwanek reports on a 1989 support group survey of adopted persons who had received a veto on their birth certificate. Of a total of 76 adopted persons, 75 had embarked on a search immediately they were made aware of the veto. Of this total 72 adopted persons traced their birth mother successfully, within six months, without having recourse to official departmental records. Iwanek makes two salient observations: "It seems that receiving a veto on the birth certificate, without any written explanation, only acts as an encouragement to search more intensively" and "... in placing a veto the birth mother was in more danger of being found out than if she had not" (1998, p29). There is also anecdotal evidence that the veto, if placed in response to a request for identifying information, is a ploy for buying time, making adjustments, accepting the notion that the searcher is interested in contact (and the person being sought). In this context the veto is not a definite 'no', but a tentative 'yes', perhaps an attempt to exert some influence over a situation which threatens to get out of control emotionally. There are some birth parents who place a veto to prevent the children of their marriage from finding out about the adopted child, but who are then located by the adult adoptee, despite the veto and react positively to being found. Raylene, in Wells (1994), referring in this case to the two children she was separated from by adoption, is an example: "As far as I am concerned, having the veto on and the fact that they found me anyway means they really did want to know me!" (p79). Coles pp178-179

Australian range of vetoes

In Australia, application of the veto varies between jurisdictions. Two states, New South Wales and Tasmania, maintain contact only vetoes. Where such a veto is in place, identifying information is released to applicants only when an undertaking not to make contact is signed. This provision also applies in the Australian Capital Territory. In New South Wales, the contact veto is reinforced with a fine of \$2750 or six months' imprisonment or both for breaching the commitment. This punitive clause in the New South Wales Act treats people seeking their personal history, confirmation of the well-being of their progeny and a personal imperative to heal emotional wounds as a criminal act. New South Wales does allow the release of identifying information, but if a veto is in place, the

recipient of the information must sign an undertaking not to make contact. The person who has lodged the veto is advised when the other party has received the identifying information. In Queensland, a distinction is made between the disclosure of information and contact. For adoptions finalised prior to June 1991, if an adopted person or a birth parent has objected to contact and the disclosure of information, no identifying information will be disclosed. If an objection to contact only is registered, but not an objection to disclosure of information, the identifying information can be released, but contact is prohibited. The relevant objection remains in force until revoked by the person who placed it, meaning, in effect, that a permanent contact and/or information veto operates, even after death. South Australia operates a five year veto register, which lapses at the end of the term, unless the option to renew is exercised. The Northern Territory has a veto provision similar to that of South Australia, except the term is three years. In South Australia, applicants can place a veto in which they may, for example, request that they be told if an enquiry is made of them, or consent to a message being left for them. This allows the person placing the veto to reconsider their position in the light of information received. In 2003, Western Australia amended its Adoption Act so that no new contact or information vetoes could be placed, with current information vetoes ceasing two years after the legislation was gazetted. Existing contact vetoes are to remain, unless revoked by the originator. Even though Victoria does not have a formal veto, it and Tasmania maintain a form of information veto by requiring that birth parents gain the permission of adopted persons for the release of identifying information. p179

Destructive effects of vetoes

A veto is the armour plate of denial

Robinson wrote of vetoes in general, applied specifically to a South Australian context, in the ARMS SA Newsletter of July 2000. She argues:

“The facility to lodge a veto on the release of adoption information is a perpetuation of the shame and secrecy which has surrounded adoption for many years. Being involved in adoption is not a shameful activity. Those who wish to confront the truth are being forced to remain in fear and ignorance because of this indefensible clause in the adoption legislation. The lodging of vetoes is preventing personal growth and is causing further heartache and sorrow to those whose lives have already been damaged. Those who wish to heal are being denied that opportunity and are being hampered in their efforts as their desires are thwarted by this cruel twist to the adoption legislation” (2000b, p12). Coles p180

Robinson then goes on: “Those who lodge vetoes are being supported to continue in a position of denial and are being prevented from confronting and integrating their adoption issues into their lives” (ibid). Noting the impact of the veto also on those who are the target of its placement, Robinson concludes: “No one should be able to prevent healing, either their own or another party’s” (2000b, p13). Robinson’s argument is very persuasive. I responded to her views in the ARMS SA Newsletter of November & December the same year (Coles, 2000). Noting my and my son’s polarised view on the veto, I wrote: “*To grow, you have to want to grow*” [emphasis in

the reference]. This necessitates accepting that adoption is a life-changing event, before being able to deal with the impact of that discovery and, as a result of confronting the pain, the shame and the anger, beginning a journey of recovery”. Noting that some see no need to heal because they believe that there is nothing that needs fixing, I concluded: “Not everybody affected by a veto sees it from the same viewpoint. Your stance depends where you are situated on the denial-acceptance spectrum. Eliminating the veto from adoption legislation would be a good start, to alleviate future suffering and misunderstanding” (p7).

Removing the veto may also assist those who are using it now as a shield. Take it away and the armour of denial is dented, the defence weakened and the wisdom of resistance is challenged. This could be the catalyst required for those who claim that they do not have adoption issues, which may be an issue in itself. p181

Source Gary Coles ‘Ever After’ 2004 pp175-181

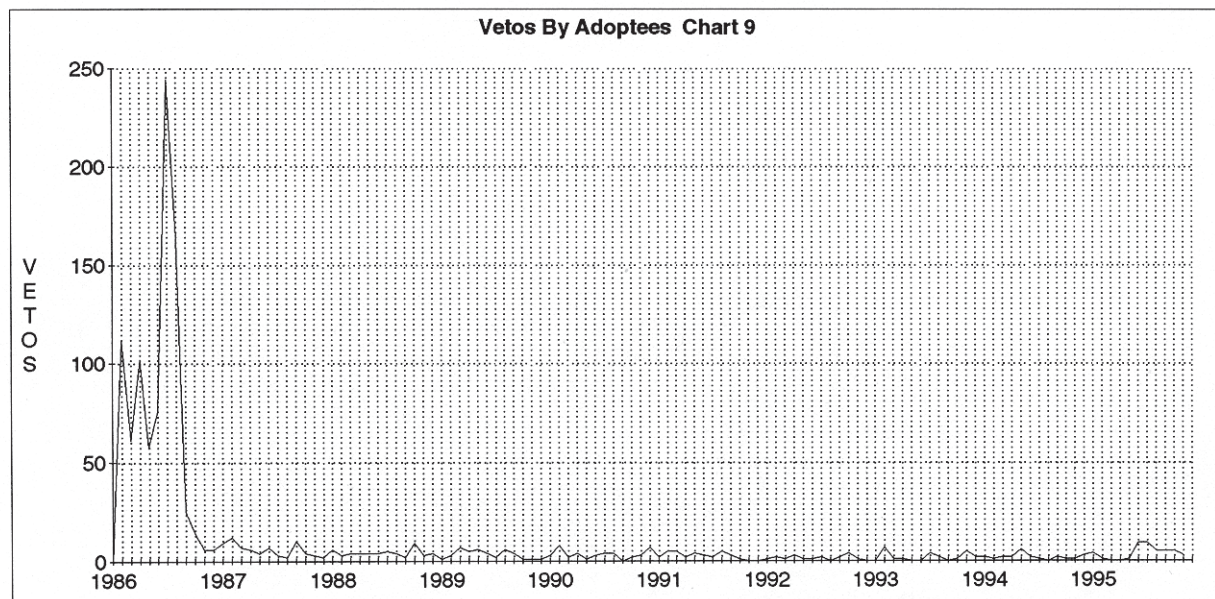
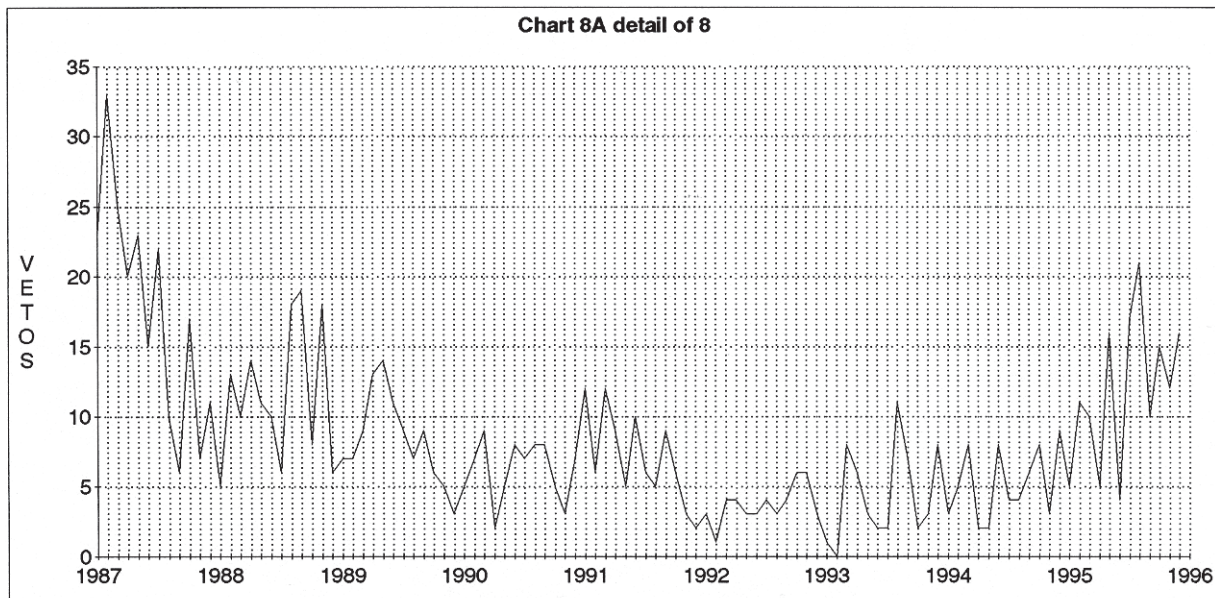
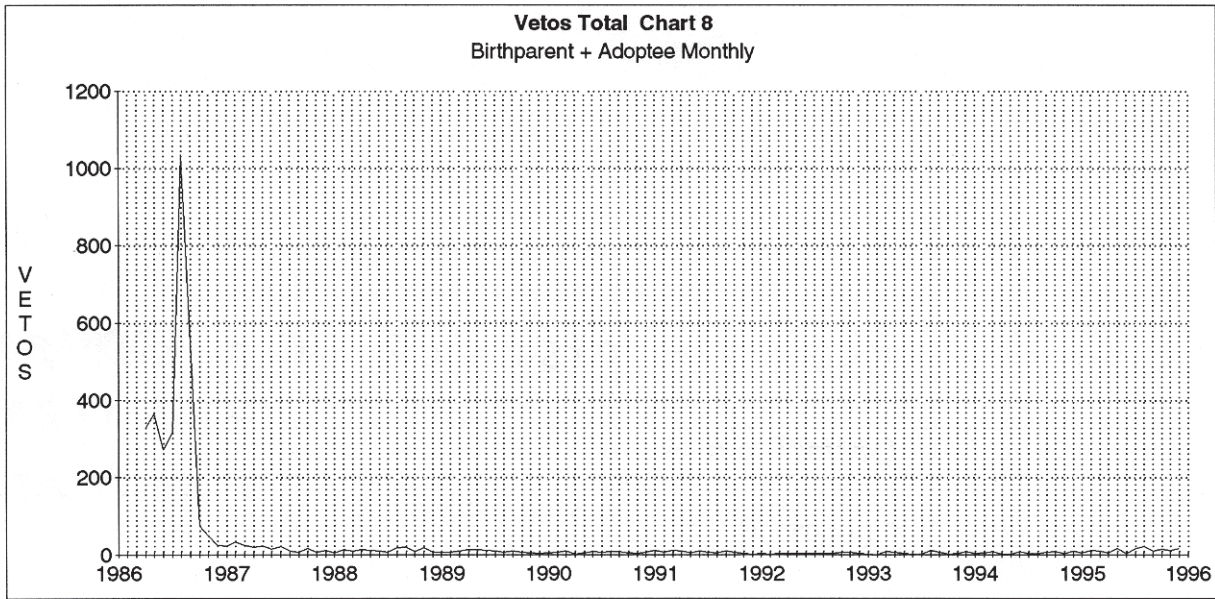
Australian operation of vetoes

Marshall & McDonald—Vetoes were introduced as a means of giving protection to people affected by an adoption who did not wish to participate in reunion, and as a compromise for those who argued strongly against retrospective legislation. All states and territories with the exception of Victoria and Tasmania have some form of veto. In Queensland, Western Australia, South Australia and the Northern Territory a veto on the release of information can be imposed. In New South Wales and the Australian Capital Territory a veto on contact only is available.

In New South Wales the contact veto must be lodged in person. The Act also requires the vetoer to be informed when information subject to a veto has been issued. People lodging a veto are encouraged to leave some message or word of explanation for the person who will be affected. When the certificate is issued this message can be accessed, and the adoptee or birth parent subject to the veto may themselves leave a message. In a majority of cases as a result of this process there has been some leaving a message or expressing a willingness to be contacted for information, most place what is described as a ‘full restriction’.

By August 1994, 60 per cent of all vetoes lodged to that point came up for renewal. Of these only 54 per cent were renewed. As a result, almost half of the people who had been denied access to information because of the operation of the veto became eligible to have information released to them. It is interesting to note that when for a time people being advised about the upcoming renewal were also informed that the person affected had applied for information, all but a small minority responded with some positive variation to the veto. cf

Source Marshall & McDonald ‘The Many Sided Triangle’ 2001pp229-230



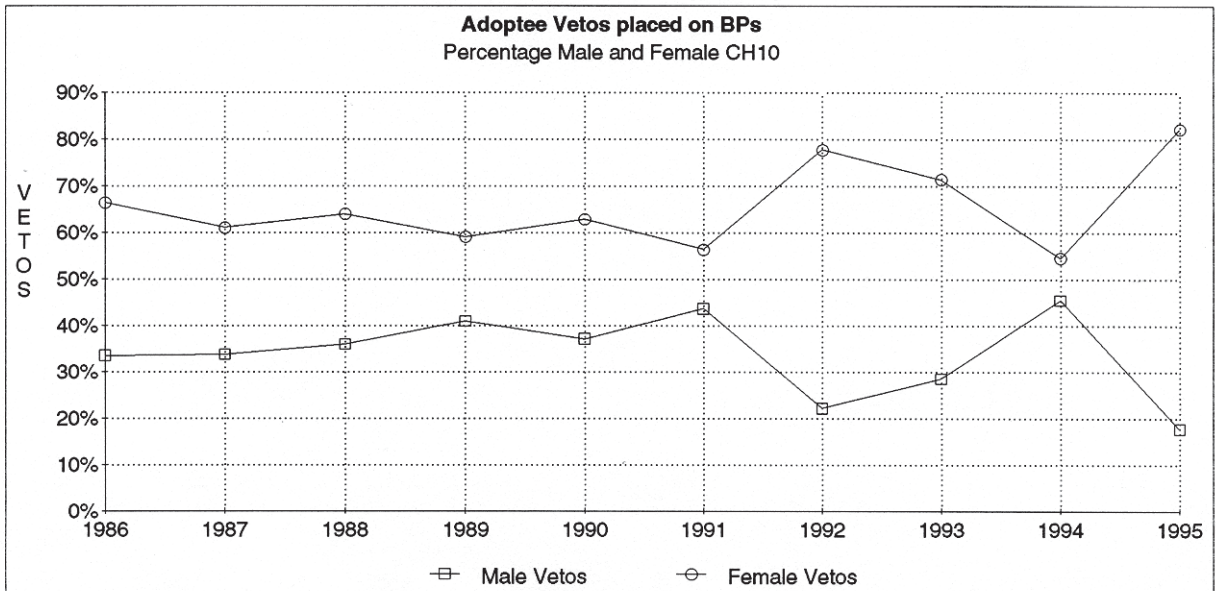
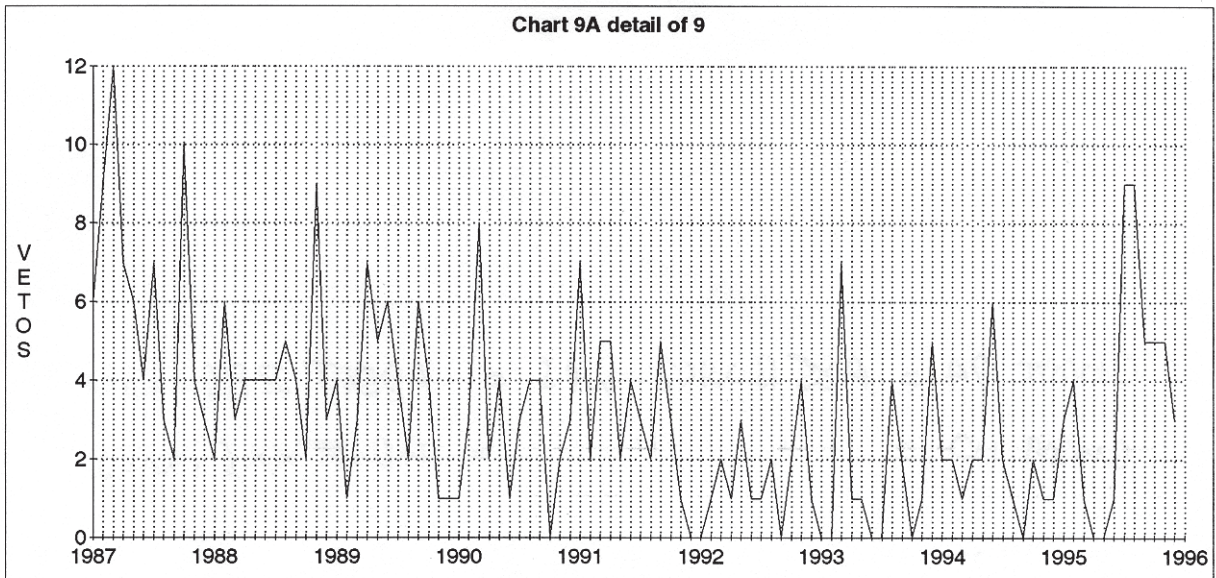


CHART DATA

Chart 8 Sum of Adoptee + birth parent vetos monthly returns. The high peak of August 1986 occurred when adoptee access to their original birth entries first became operative. About 4% of birthmothers and about 1.5% of adoptees lodged vetos. Chart 8A reveals the detail for 1987-1996 period.

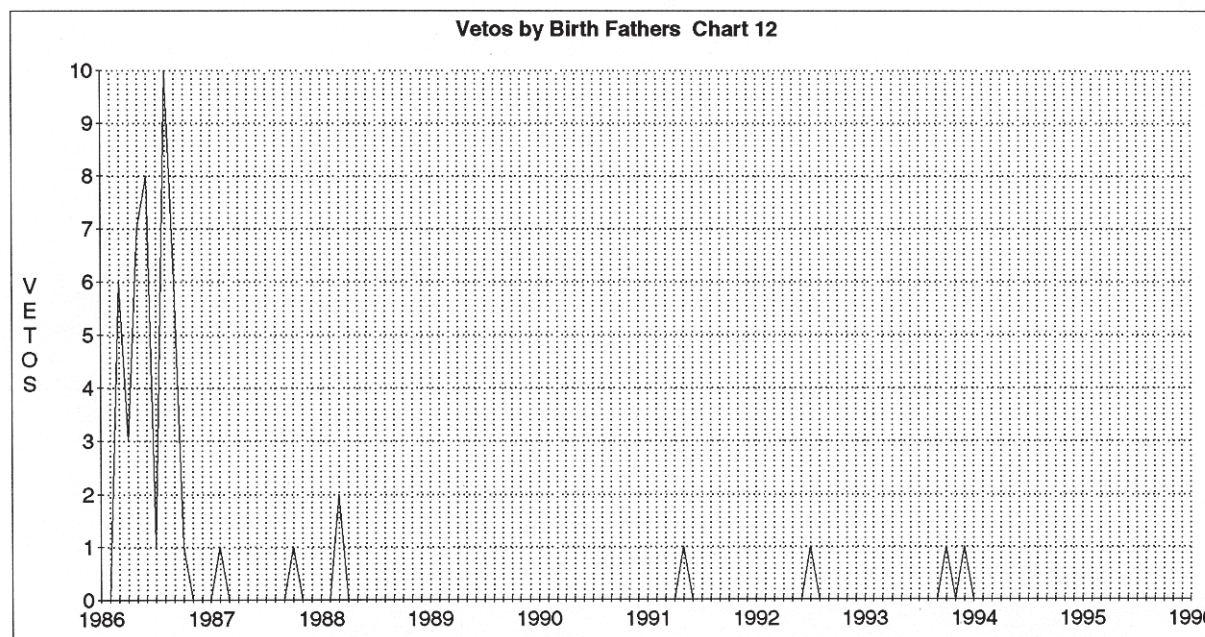
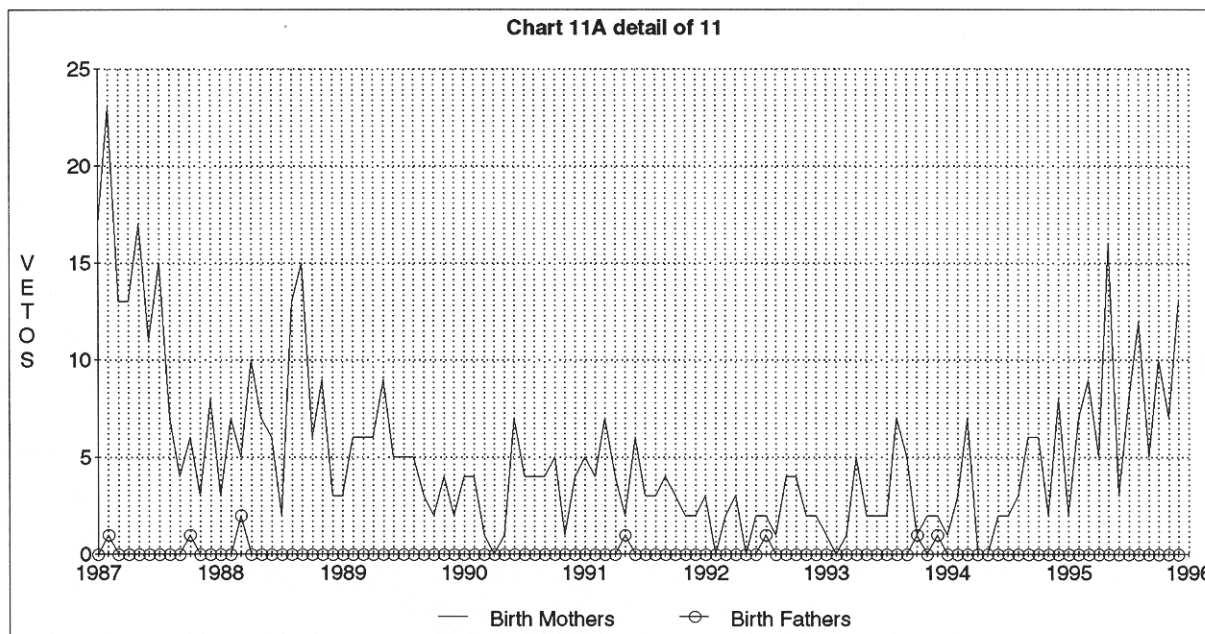
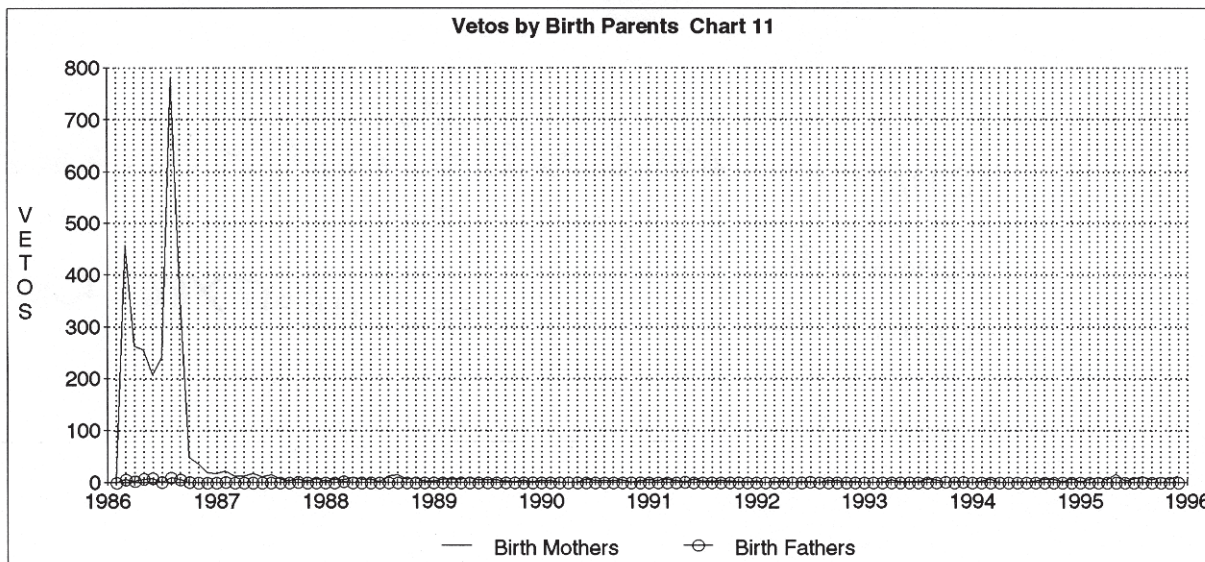
Chart 9 Adoptee placed vetos, monthly returns. The high peak occurred in August 1986 when applications by birth parents for identifying information their now adult adopted out children became operative for the first time. About 1.5% of adult adoptees vetoed the release of their identifying information. Chart 9A detail reveals detail of 1987-1996 period.

Chart 9A Adoptee vetos placed on Birthparents. Reveals the detail of Chart 9 for the period 1987-1996. There is a very low veto activity rate. Adoptee placement of vetos on birthparents averaged 3 per month for the period.

Chart 10 Adoptee vetos placed on Birthparents percentage male and female This chart displays the annual percentage ratio between male and female adoptees who place a veto on their birthparents, to prevent disclosure of their identity under the Adult Adoption Information Act 1985. Note that female adoptees lodged vetos at a consistently higher rate than male adoptees. For the period 1986-1995, of the sum total of adoptee lodged vetos, 34% were lodged by males and 69% females.

Chart 11 Vetos by Birth Parents monthly returns. There are two high peaks, the first in March 1986 when the veto provisions under the Adult Adoption Information Act 1985 came into effect. The second peak occurred in August 1986, the commencement date for adult adoptee applications for their Original Birth Certificates under the Adult Adoption Information Act 1985. Note the very low level of birthfather veto activity, in comparison with birthmothers.

Chart 11A Vetos by Birth Parents detail of Chart 11 for period 1987-1996. Note the low rate of veto activity by birthmothers placing vetos on adoptees, the averaging was 5 to 6 vetos per month for the period. Birthfather veto activity is almost non-existent.



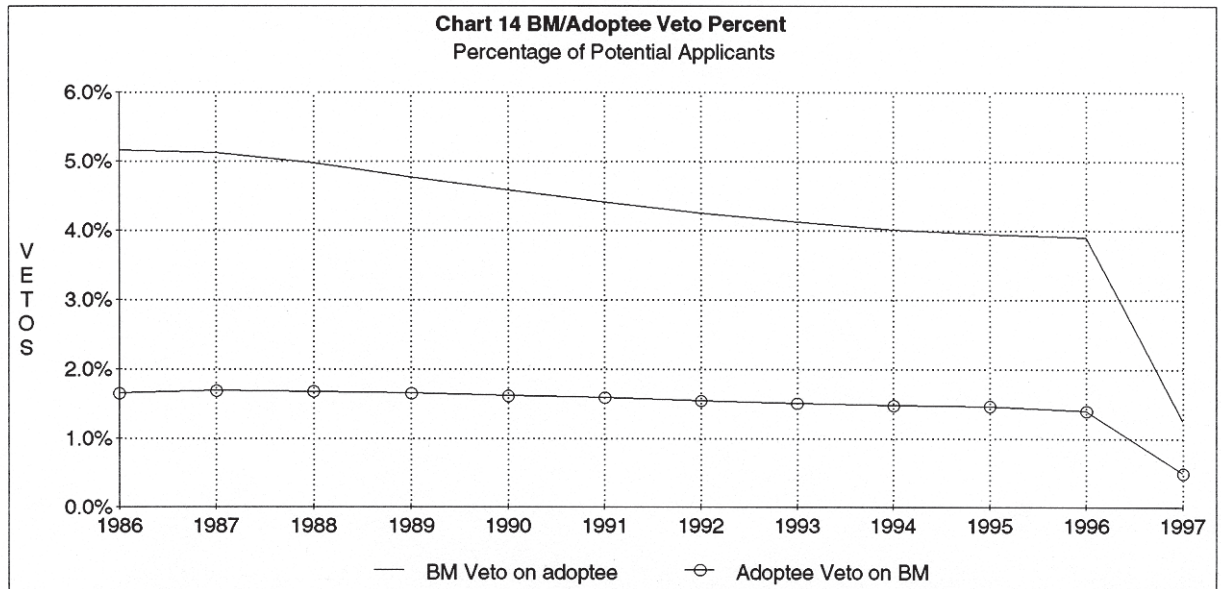
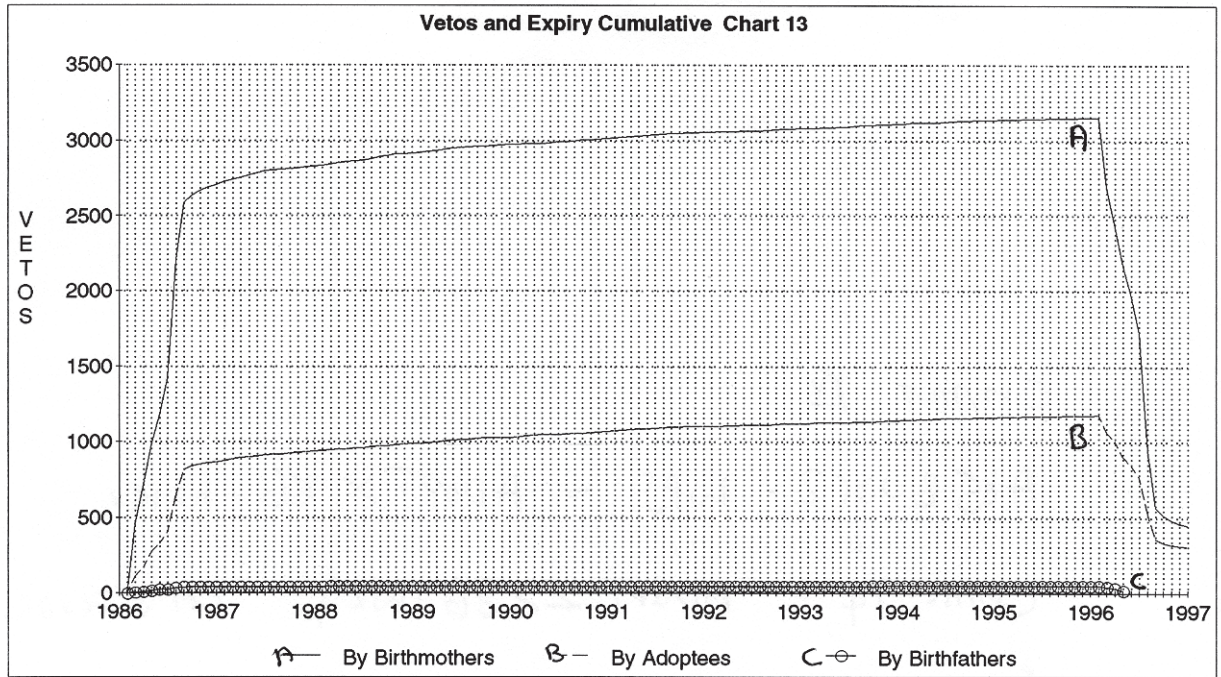


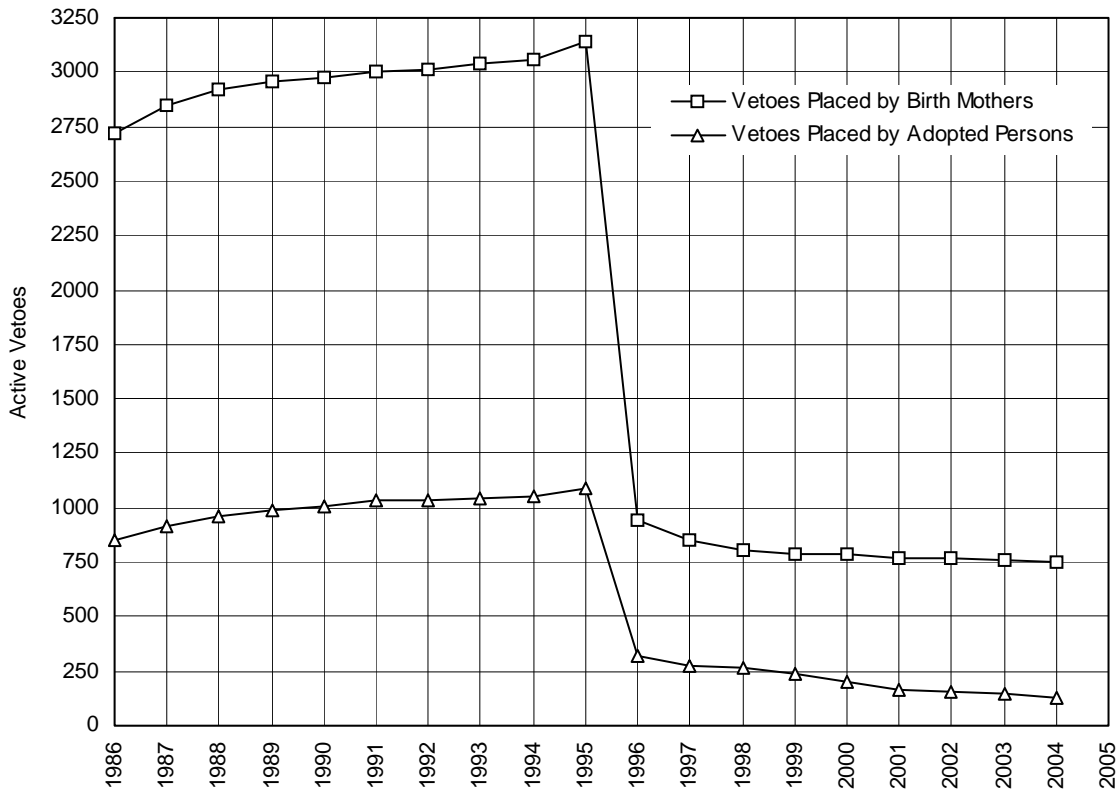
Chart 12 Vetos placed by Birthfathers. There was an extremely low veto response from birthfathers. Under the Adult Adoption Information Act 1985 a birthfather cannot lodge a veto unless he is named on the original birth entry. In most cases ex-nuptial fathers are not named on the child's birth entry, so most cannot lodge a veto. The high peaks, albeit if only a maximum of 10, occur in the period between the implementation of the veto provisions in March 1986 and the implementation of adoptee access provisions in August 1986.

Data Source Statistics of Registrar-General, Department of Justice.

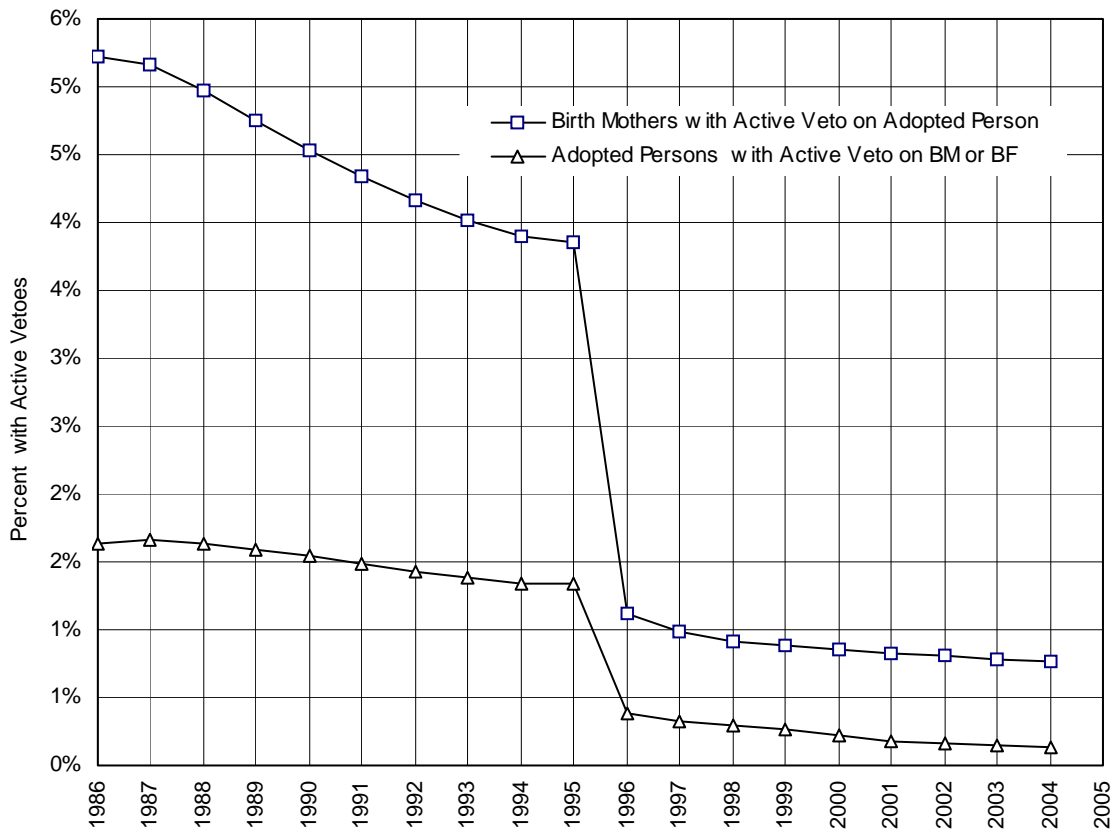
Chart 13 Vetos and expiry cumulative Overview of the placing and expiry of vetos. The sudden rise of vetos when the Adult Adoption Information Act 1985 was implemented is matched by a corresponding demise in 1996. The sudden decline was due to the automatic expiry of vetos after 10 years. The fact that very few persons renewed their vetos, and very few new vetos are being lodged indicates that the veto provisions have probably outlived whatever purpose they may have had.

Chart 14 Percentage of Birthmothers and Adoptees that place vetos Shows vetos as a percentage of the total potential applicants under the Adult Adoption Information Act 1985. The slowly falling percentage is caused by increasing numbers of adoptees become adults. The pool of adult adoptees has increased without any corresponding increase in vetos, thus the veto percentage drops.

Active Vetoes of Birth Mothers and Adopted Persons

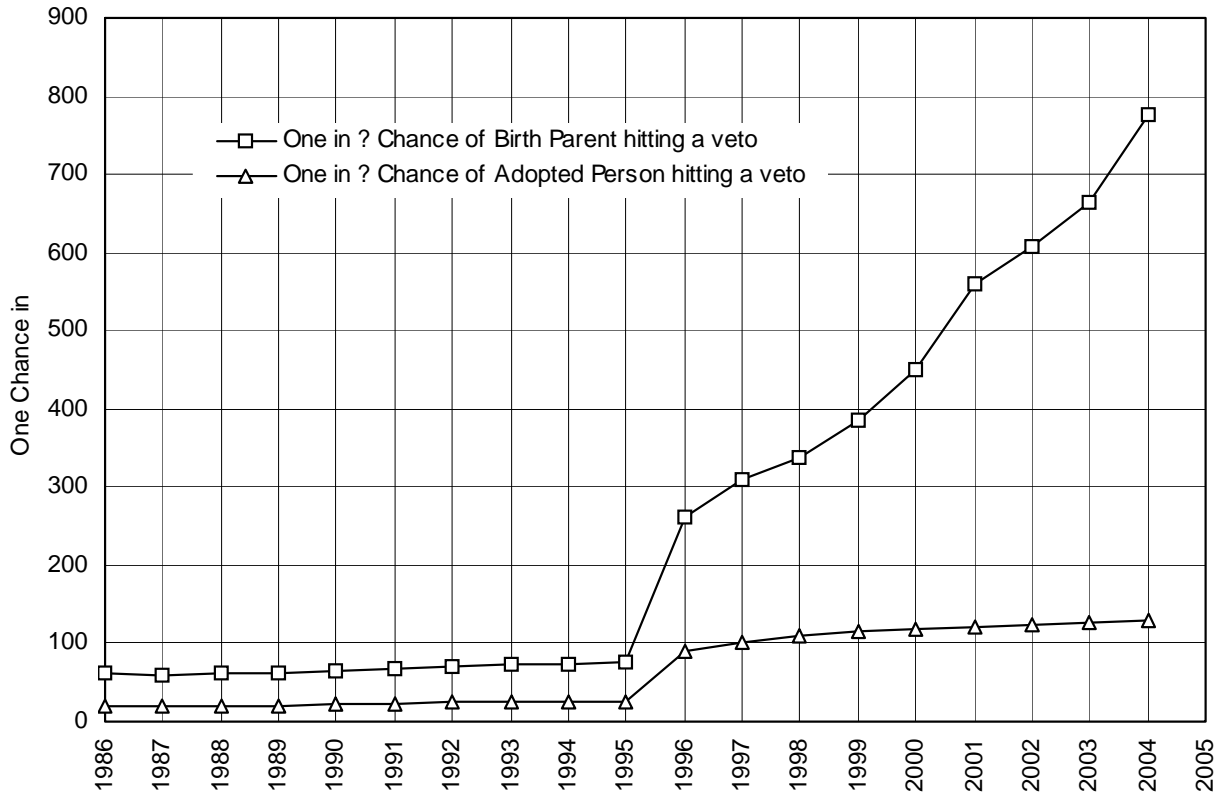


Percentage of Birth Mothers and Adopted Persons with Active Veto in Place

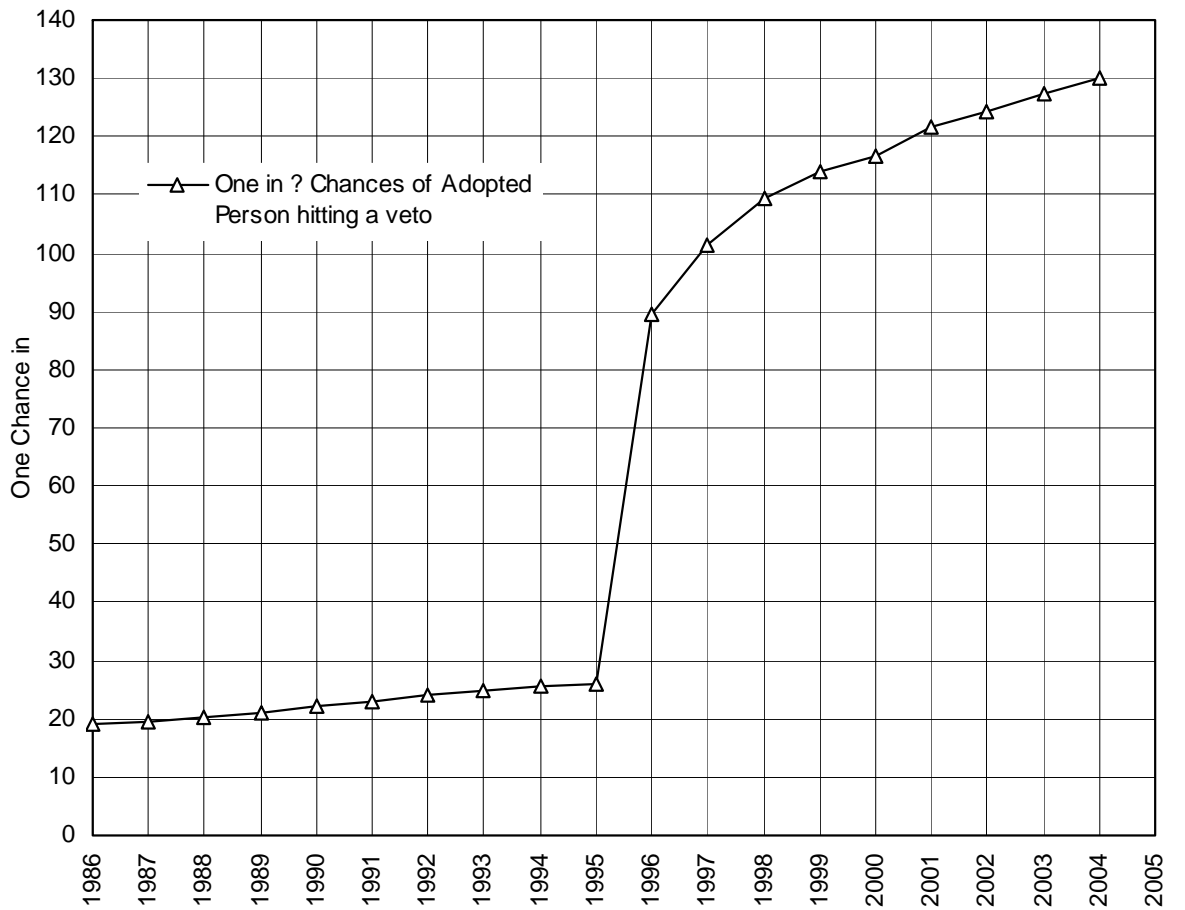


Note: The Percentage is based on estimated adult adopted person population in each year. The information on this chart will give an indication of the expected chances of an adopted persons or birth parent applicant encountering an active veto in any given year.

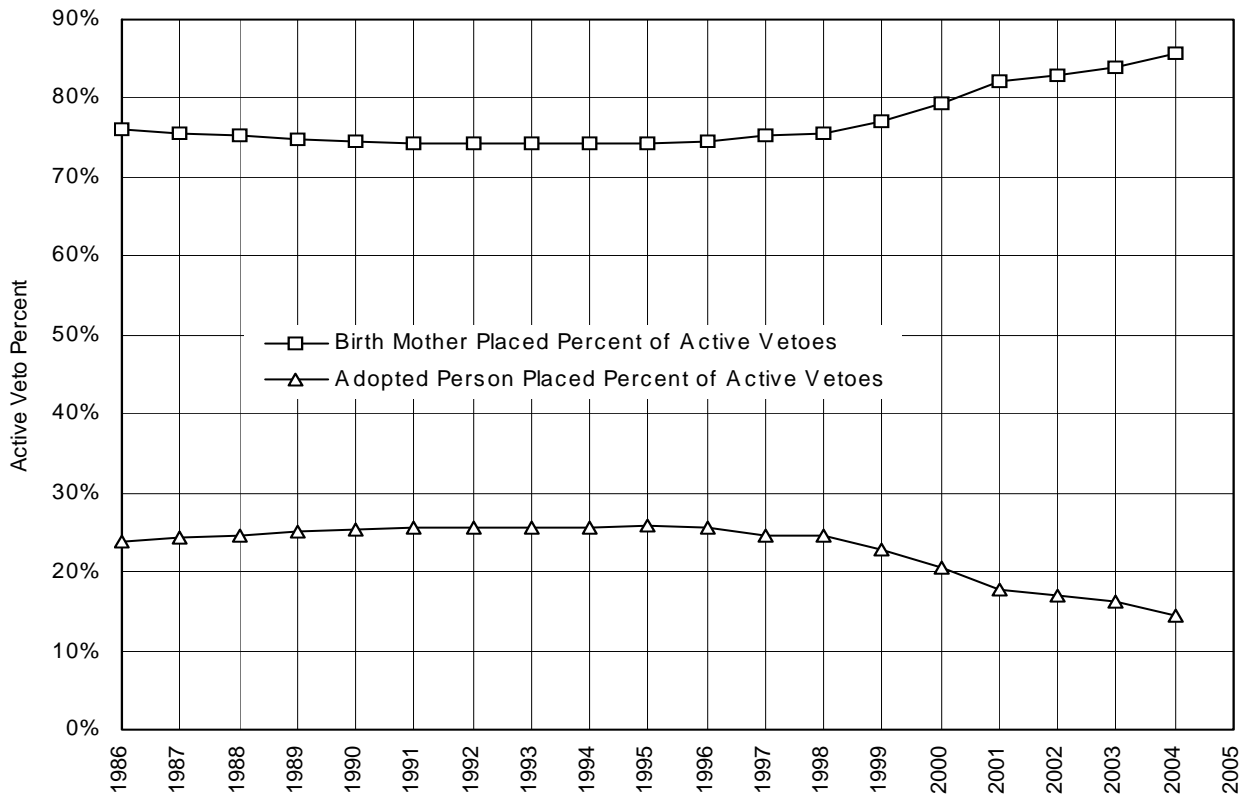
Chances of Birth Parent Encountering an Active Veto



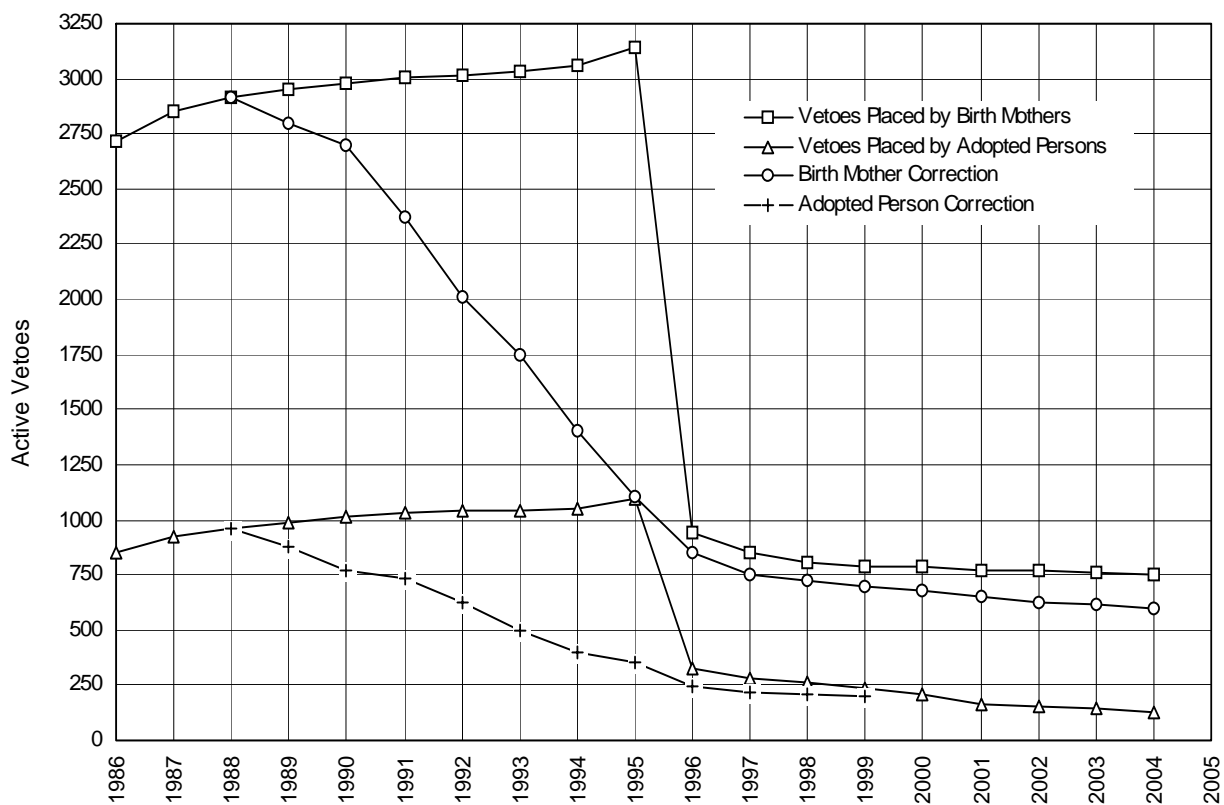
Chances of Adopted Person Encountering an Active Veto



Birth Mother/Adopted Person Percentage of Active Vetoes



Birth Mother and Adopted Person Concern Correction



Birth Mother and Adopted Person Concern Correction: The very low level of renewal of vetoes indicates that the concern had fallen below any need to renew the veto. The actual level of concern is more likely to have followed a steady decline commencing well before the expiry date as portrayed in the correction curves above.

ACTIVE VETOES PLACED BY ADOPTED PERSONS

YEAR	Adopted Person Placed Active Vetoes at 1st Jan	Adopted Person Placed Expired Vetoes	Adopted Person Placed Cancelled Vetoes	Adopted Person Placed Renewed Vetoes+	Adopted Person Placed New Vetoes 31-Dec	Adopted Person Placed Active Vetoes at 31st Dec	Adopted Person Placed Percentage of Active Vetoes	Percent of Adoptees with an ActiveVeto on Birth Mother	YEAR
1986	0	0	- 8	0	861	853	23.90%	1.64%	1986
1987	853	0	- 6	0	73	920	24.41%	1.67%	1987
1988	920	0	- 13	0	50	957	24.71%	1.63%	1988
1989	957	0	- 11	0	44	990	25.11%	1.59%	1989
1990	990	0	- 14	0	35	1011	25.35%	1.54%	1990
1991	1011	0	- 17	0	39	1033	25.60%	1.49%	1991
1992	1033	0	- 15	0	20	1038	25.61%	1.43%	1992
1993	1038	0	- 14	0	21	1045	25.61%	1.38%	1993
1994	1045	0	- 13	0	22	1054	25.64%	1.34%	1994
1995	1054	0	- 8	0	45	1091	25.79%	1.34%	1995
1996	1091	- 853	- 5	54	36	323	25.55%	0.38%	1996
1997	323	- 67	- 2	4	21	279	24.71%	0.32%	1997
1998	279	- 37	- 1	7	15	263	24.53%	0.30%	1998
1999	263	- 33	- 5	2	7	234	22.83%	0.26%	1999
2000	234	- 35	- 4	4	5	204	20.56%	0.22%	2000
2001	204	- 40	- 3	5	1	167	18.84%	0.18%	2001
2002	167	- 19	- 0	6	3	157	16.97%	0.16%	2002
2003	157	- 22	- 2	5	8	146	16.13%	0.15%	2003
2004	146	- 22	- 1	+1	2	126	14.33%	0.13%	2004
2005									2005
2006									2006

ACTIVE VETOES PLACED BY BIRTH MOTHERS

YEAR	Birth Mother Placed New Vetoes at 1st Jan	Birth Mother Placed Expired Vetoes	Birth Mother Placed Cancelled Vetoes	Birth Mother Placed Renewed Vetoes	Birth Mother Placed New Vetoes 31s Dec	Birth Mother Placed Active Veto at 31st Dec	Birth Parent Placed Percent of Active Vetoes	Percent of Birth Mothers with Active Veto on Adoptee	YEAR
1986	0	0	- 14	0	2730	2716	76.10%	5.22%	1986
1987	2716	0	- 6	0	139	2849	75.59%	5.16%	1987
1988	2849	0	- 21	0	88	2916	75.29%	4.97%	1988
1989	2916	0	- 19	0	56	2953	74.89%	4.75%	1989
1990	2953	0	- 15	0	39	2977	74.65%	4.53%	1990
1991	2977	0	- 21	0	46	3002	74.40%	4.34%	1991
1992	3002	0	- 13	0	26	3015	74.39%	4.16%	1992
1993	3015	0	- 12	0	32	3035	74.39%	4.02%	1993
1994	3035	0	- 18	0	40	3057	74.36%	3.89%	1994
1995	3057	0	- 14	0	97	3140	74.21%	3.85%	1995
1996	3140	- 2716	- 10	424	103	941	74.45%	1.12%	1996
1997	941	- 133	- 2	15	29	850	75.29%	0.99%	1997
1998	850	- 67	- 4	14	16	809	75.47%	0.92%	1998
1999	809	- 37	- 1	8	12	791	77.17%	0.88%	1999
2000	791	- 24	- 0	17	4	788	79.44%	0.86%	2000
2001	788	- 25	- 5	10	1	769	82.16%	0.82%	2001
2002	769	- 13	- 1	8	5	768	83.03%	0.80%	2002
2003	768	- 20	- 2	7	6	759	83.87%	0.78%	2003
2004	759	- 30	- 1	+23	+2	753	85.67%	0.77%	2004
2005	753								2005
2006									2006

YEAR	Adult Adopted Person Population	Total Active Vetoes Per Year 31st Dec	Adoptee Placed Percent of Active Vetoes	Birth Parent Placed Percent of Active Vetoes
1986	52051	3569	23.90%	76.10%
1987	55215	3769	24.41%	75.59%
1988	58631	3873	24.71%	75.29%
1989	62199	3943	25.11%	74.89%
1990	65654	3988	25.35%	74.65%
1991	69226	4035	25.60%	74.40%
1992	72447	4053	25.61%	74.39%
1993	75562	4080	25.61%	74.39%
1994	78526	4111	25.64%	74.36%
1995	81463	4231	25.79%	74.21%
1996	84076	1264	25.55%	74.45%
1997	86289	1129	24.71%	75.29%
1998	88409	1072	24.53%	75.47%
1999	90271	1025	22.83%	77.17%
2000	92084	992	20.56%	79.44%
2001	93535	936	17.84%	82.16%
2002	95437	925	16.97%	83.03%
2003	96712	905	16.13%	83.87%
2004	97852	879	14.33%	85.67%
2005	98658			

ACTIVE VETOES PLACED BY BIRTH FATHERS

Very few Birth Fathers can place a veto as they are normally not recorded on the Original Birth Entry. The Birth Father Veto statistics are 1986 = 42, 1987 = 2, 1988 = 2, 1991 = 1, 1992 = 1, 1993 = 2, 1996 = 1, 1998 = 1. Total = 52. Of these 52 vetoes 50 expired in 1996 leaving 2 active vetoes as at 2004. There are a few more birth father vetoes linked with joint BM/ BF vetoes.

Data Source: Statistics of Registrar General and Social Welfare/ AISU/CYF Collated KCG

VETOES PLACED BY ADOPTED PERSONS - MONTHLY RETURNS

Adult Adoption Information Act 1985

1986	New Vetoes			10year			Total	Active Vetoes	1991	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal
	Male	Female	Total	Expire	Cancel	Renew											
January	31	81	112	0	0	0	112	112	January	3	4	7	0	-2	0	+5	1016
February	18	43	61	0	0	0	61	173	February	2	0	2	0	-2	0	0	1016
March	40	62	102	0	0	0	102	275	March	1	4	5	0	-1	0	+4	1020
April	23	34	57	0	0	0	57	332	April	2	3	5	0	0	0	+5	1025
May	24	52	76	0	0	0	76	408	May	1	1	2	0	-2	0	0	1025
June	89	155	244	0	0	0	244	652	June	1	3	4	0	0	0	+4	1029
July	52	112	164	0	-1	0	163	815	July	1	2	3	0	-1	0	+2	1031
August	7	18	25	0	-2	0	23	838	August	1	1	2	0	-1	0	+1	1032
September	4	10	14	0	-2	0	12	850	September	3	2	5	0	-3	0	+2	1034
October	1	5	6	0	-3	0	3	853	October	2	1	3	0	0	0	+3	1037
November	1	5	6	0	-3	0	3	853	November	0	1	1	0	-3	0	-2	1035
December	1	5	6	0	-3	0	3	853	December	0	0	0	0	-2	0	-2	1033
TOTAL	289	572	861	0	-8	0	853	853	TOTAL	17	22	39	0	-17	0	+22	1033

1987	Male	Female	Total	10year			Total	SumTotal	1992	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal
				Expire	Cancel	Renew											
January	5	1	6	0	0	0	6	859	January	0	0	0	0	0	0	0	1033
February	4	5	9	0	0	0	9	868	February	0	1	1	0	-3	0	-2	1031
March	2	10	12	0	-1	0	11	879	March	0	2	2	0	0	0	+2	1033
April	1	6	7	0	-1	0	6	885	April	0	1	1	0	-2	0	0	1033
May	3	3	6	0	0	0	6	891	May	1	2	3	0	-1	0	+2	1035
June	1	3	4	0	-1	0	3	894	June	0	1	1	0	0	0	+1	1036
July	2	5	7	0	0	0	7	901	July	1	0	1	0	0	0	+1	1037
August	1	2	3	0	0	0	3	904	August	1	1	2	0	-1	0	+1	1038
September	1	1	2	0	-1	0	1	905	September	0	0	0	0	-3	0	-3	1035
October	2	8	10	0	-1	0	9	914	October	1	1	2	0	0	0	+2	1037
November	1	3	4	0	-1	0	3	917	November	0	4	4	0	-1	0	+3	1040
December	3	0	3	0	0	0	3	920	December	1	1	2	0	-4	0	-2	1038
TOTAL	26	47	73	0	-6	0	+67	920	TOTAL	5	15	20	0	-15	0	+5	1038

1988	Male	Female	Total	10year			Total	SumTotal	1993	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal
				Expire	Cancel	Renew											
January	2	0	2	0	0	0	+2	922	January	0	0	0	0	-1	0	-1	1037
February	1	5	6	0	-1	0	+5	927	February	0	0	0	0	0	0	0	1037
March	2	1	3	0	0	0	+3	930	March	1	6	7	0	-5	0	+2	1039
April	3	1	4	0	0	0	+4	934	April	1	0	1	0	0	0	+1	1040
May	1	3	4	0	0	0	+4	938	May	0	1	1	0	-2	0	-1	1039
June	1	3	4	0	0	0	+4	942	June	0	0	0	0	-1	0	-1	1038
July	2	2	4	0	0	0	+4	946	July	0	0	0	0	0	0	0	1038
August	2	3	5	0	0	0	+5	951	August	1	3	4	0	0	0	+4	1042
September	2	2	4	0	0	0	+4	955	September	0	2	2	0	0	0	+2	1044
October	0	2	2	0	-1	0	+1	956	October	0	0	0	0	-2	0	-2	1042
November	2	7	9	0	-10	0	-1	955	November	0	1	1	0	-3	0	-2	1040
December	0	3	3	0	-1	0	+2	957	December	3	2	5	0	0	0	+5	1045
TOTAL	18	32	50	0	-13	0	+37	957	TOTAL	6	15	21	0	-14	0	+7	1045

1989	Male	Female	Total	10year			Total	SumTotal	1994	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal
				Expire	Cancel	Renew											
January	2	2	4	0	-2	0	+2	959	January	0	2	2	0	-2	0	0	1045
February	0	1	1	0	-3	0	-2	957	February	2	0	2	0	-2	0	0	1045
March	1	2	3	0	0	0	+3	906	March	1	0	1	0	-2	0	-1	1044
April	2	5	7	0	-1	0	+6	966	April	1	1	2	0	-1	0	+1	1045
May	3	2	5	0	-2	0	+3	969	May	2	0	2	0	0	0	+2	1047
June	3	3	6	0	0	0	+6	975	June	2	4	6	0	-2	0	+4	1051
July	1	3	4	0	-1	0	+3	978	July	2	0	2	0	-2	0	0	1051
August	1	1	2	0	-1	0	+1	979	August	0	1	1	0	-2	0	-1	1051
September	3	3	6	0	0	0	+6	985	September	0	0	0	0	0	0	0	1051
October	1	3	4	0	0	0	+4	989	October	0	2	2	0	0	0	+2	1052
November	1	0	1	0	-1	0	0	989	November	0	1	1	0	0	0	+1	1053
December	0	1	1	0	0	0	+1	990	December	0	1	1	0	0	0	+1	1054
TOTAL	18	26	44	0	-11	0	+33	990	TOTAL	10	12	22	0	-13	0	+9	1054

1990	Male	Female	Total	10year			Total	SumTotal	1995	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal
				Expire	Cancel	Renew											
January	0	1	1	0	-2	0	-1	989	January	0	3	3	0	-2	0	1	1055
February	1	2	3	0	-2	0	+1	990	February	1	3	4	0	-1	0	3	1058
March	4	4	8	0	0	0	+8	998	March	0	1	1	0	-1	0	0	1058
April	1	1	2	0	-1	0	+1	999	April	0	0	0	0	0	0	0	1058
May	3	1	4	0	-2	0	+2	1001	May	0	0	0	0	0	0	0	1058
June	1	0	1	0	-1	0	0	1001	June	1	0	1	0	0	0	1	1059
July	0	3	3	0	-1	0	+2	1003	July	1	8	9	0	0	0	9	1068
August	2	2	4	0	0	0	+4	1007	August	1	8	9	0	0	0	9	1077
September	0	4	4	0	-2	0	+2	1009	September	0	5	5	0	-1	0	4	1081
October	0	0	0	0	-1	0	-1	1008	October	0	5	5	0	0	0	5	1086
November	0	2	2	0	-2	0	0	1008	November	2	3	5	0	-2	0	3	1089
December	1	2	3	0	0	0	+3	1011	December	2	1	3	0	-1	0	2	1091
TOTAL	13	22	35	0	-14	0	+21	1011	TOTAL	8	37	45	0	-8	0	+37	1091

VETOES PLACED BY ADOPTED PERSONS - MONTHLY RETURNS

Adult Adoption Information Act 1985

																				Active V
Year	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal		Year	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal		
1996										2001										
January			3	0	-2	0	+1	1092		January			0	-7	0	2	-5	199		
February			2	0	-1	12	+13	1105		February			0	-2	-1	0	-3	196		
March			2	-112	-1	23	-88	1017		March			1	-5	0	0	-4	192		
April			3	-61	0	0	-58	959		April			0	-5	0	1	-4	188		
May			6	-102	0	5	-91	868		May			0	-2	0	0	-2	186		
June			1	-57	0	2	-54	814		June			0	-4	0	1	-3	183		
July			3	-76	0	3	-70	744		July			0	-3	0	1	-2	181		
August			2	-244	0	7	-235	509		August			0	-2	0	0	-2	179		
September			6	-163	-1	1	-157	352		September			0	-5	0	0	-5	174		
October			3	-23	0	1	-19	333		October			0	-3	-1	0	-4	170		
November			2	-12	0	0	-10	323		November			0	-2	0	0	-2	168		
December			3	-3	0	0	0	323		December			0	0	-1	0	-1	167		
TOTAL			36	-853	-5	54	-768	323		TOTAL			1	-40	-3	5	-37	167		
1997										2002										
January			1	-6	0	0	-5	318		January			0	0	0	0	0	167		
February			0	-9	0	0	-9	309		February			0	-1	0	0	-1	166		
March			4	-11	0	0	-7	302		March			0	-2	0	0	-2	164		
April			0	-6	0	0	-6	296		April			0	-1	0	0	-1	163		
May			5	-6	0	1	0	296		May			0	-3	0	0	-3	160		
June			2	-3	0	1	0	296		June			0	-1	0	0	-1	159		
July			4	-7	0	0	-3	293		July			1	-1	0	1	+1	160		
August			1	-3	-1	0	-3	290		August			1	-2	0	0	-1	159		
September			1	-1	0	0	-0	290		September			1	0	0	2	+3	162		
October			1	-9	0	0	-8	282		October			0	-2	0	0	-2	160		
November			1	-3	-1	1	-2	280		November			0	-4	0	1	-3	157		
December			1	-3	0	1	-1	279		December			0	-2	0	2	0	157		
TOTAL			21	-67	-2	4	-44	279		TOTAL			3	-19	0	6	-10	157		
1998										2003										
January			1	-2	0	0	-1	278		January			0	0	0	1	+1	158		
February			1	-5	0	0	-4	274		February			1	0	-1	0	0	158		
March			3	-3	0	1	+1	275		March			1	-7	0	1	-5	153		
April			3	-4	0	0	-1	274		April			1	-1	0	1	+1	154		
May			2	-4	0	0	-2	272		May			1	-1	-1	1	0	154		
June			1	-4	0	1	-2	270		June			0	0	0	0	0	154		
July			0	-4	0	1	-3	267		July			0	0	0	1	+1	155		
August			0	-5	0	1	-4	263		August			0	-4	0	0	-4	151		
September			0	-4	0	0	-4	259		September			2	-2	0	0	0	151		
October			1	0	0	1	+2	261		October			1	0	0	0	+1	152		
November			1	0	0	1	+2	263		November			0	-2	0	0	-2	150		
December			2	-2	-1	1	0	263		December			1	-5	0	0	-4	146		
TOTAL			15	-37	-1	7	-16	263		TOTAL			8	-22	-2	5	+11	146		
1999										2004										
January			0	-2	-1	1	-2	261		January			1	-2	0	0	-1	145		
February			2	+2	-1	0	+3	264		February			1	-2	0	0	-1	144		
March			1	-3	0	0	-2	262		March			0	-1	0	0	-1	143		
April			1	-6	0	0	-5	257		April			0	-2	0	0	-2	141		
May			0	-3	0	0	-3	254		May			0	-2	0	0	-2	139		
June			0	-6	0	0	-6	246		June			0	-6	0	0	-6	133		
July			2	-3	-2	0	-3	245		July			0	-2	0	1	-1	132		
August			0	-1	0	0	-1	244		August			0	-1	0	0	-1	131		
September			0	-6	0	0	-6	238		September			0	0	0	0	0	131		
October			0	-4	0	1	-3	235		October			0	-2	0	0	-2	129		
November			1	0	0	0	+1	236		November			0	-1	-1	0	-2	127		
December			0	-1	-1	0	-2	244		December			0	-1	0	0	-1	126		
TOTAL			7	-33	-5	2	-29	234		TOTAL			2	-22	-1	+1	-20	126		
2000										2005										
January			1	-1	-1	0	-1	233		January			1	-2	0	0	-1	145		
February			0	-3	-1	0	-4	229		February			1	-2	0	0	-1	144		
March			0	-8	-1	0	-9	220		March			0	-1	0	0	-1	143		
April			0	-2	-1	0	-3	217		April			0	-2	0	0	-2	141		
May			0	-4	0	0	-4	213		May			0	-2	0	0	-2	139		
June			1	-1	0	0	0	213		June			0	-6	0	0	-6	133		
July			2	-3	0	1	0	213		July			0	-2	0	1	-1	132		
August			0	-4	0	0	-4	209		August			0	-1	0	0	-1	131		
September			0	-4	0	0	-4	205		September			0	0	0	0	0	131		
October			0	-2	0	0	-2	203		October			0	-2	0	0	-2	129		
November			1	0	0	2	+3	206		November			0	-1	-1	0	-2	127		
December			0	-3	0	1	-2	204		December			0	-1	0	0	-1	126		
TOTAL			5	-35	-4	4	-30	204		TOTAL			2	-22	-1	+1	-20	126		

VETOES PLACED BY BIRTH PARENTS - MONTHLY RETURNS

Adult Adoption Information Act 1985

Year	New Vetoes			10year			Active Vetoes		SumTotal	Year	New Vetoes			10year			Active Vetoes		SumTotal							
	Mother	Father	Total	Expiry	Cancel	Renew	Total	Total			Mother	Father	Total	Expiry	Cancel	Renew	Total	Total								
1986																										
March	458	6	464	0	0	0	464	464	January	5	0	5	0	0	0	5	2982	February	4	0	4	0	-3	0	1	2983
April	264	3	267	0	0	0	267	731	March	7	0	7	0	-2	0	5	2988	April	4	0	4	0	-2	0	2	2990
May	256	7	263	0	0	0	263	994	April	4	0	4	0	-2	0	2	2990	May	2	1	3	0	-3	0	0	2993
June	207	8	215	0	0	0	215	1209	June	6	0	6	0	-3	0	3	2993	July	3	0	3	0	-4	0	-1	2992
July	242	1	243	0	0	0	243	1452	July	3	0	3	0	-4	0	-1	2992	August	3	0	3	0	-2	0	1	2993
August	781	10	791	0	0	0	791	2243	August	3	0	3	0	-2	0	1	2993	September	4	0	4	0	-1	0	3	2996
September	377	6	383	0	0	0	383	2626	September	4	0	4	0	-1	0	3	2996	October	3	0	3	0	0	0	3	2999
October	48	1	49	0	-6	0	43	2669	October	3	0	3	0	0	0	3	2999	November	2	0	2	0	-1	0	1	3000
November	36	0	36	0	-5	0	31	2700	November	2	0	2	0	-1	0	1	3000	December	2	0	2	0	0	0	2	3002
December	19	0	19	0	-3	0	16	2716	December	2	0	2	0	0	0	2	3002	TOTAL	45	1	46	0	-21	0	25	3002
TOTAL	2688	42	2730	0	-14	0	2716	2716																		
1987																										
January	17	0	17	0	0	0	17	2733	1992																	
February	23	1	24	0	0	0	24	2757	January	3	0	3	0	0	0	3	3005	February	0	0	0	0	-2	0	-2	3003
March	13	0	13	0	0	0	13	2770	February	0	0	0	0	-2	0	-2	3003	March	2	0	2	0	0	0	2	3005
April	13	0	13	0	-1	0	12	2782	March	2	0	2	0	0	0	2	3005	April	3	0	3	0	-1	0	2	3007
May	17	0	17	0	0	0	17	2799	April	3	0	3	0	-1	0	2	3007	May	0	0	0	0	0	0	0	3007
June	11	0	11	0	0	0	11	2810	May	0	0	0	0	0	0	0	3007	June	2	0	2	0	0	0	2	3009
July	15	0	15	0	-1	0	14	2824	June	2	0	2	0	0	0	2	3009	July	2	1	3	0	0	0	3	3012
August	7	0	7	0	-1	0	6	2830	July	2	1	3	0	0	0	3	3012	August	1	0	1	0	-3	0	-2	3010
September	4	0	4	0	-1	0	3	2833	August	1	0	1	0	-3	0	-2	3010	September	4	0	4	0	-4	0	0	3010
October	6	1	7	0	0	0	7	2840	September	4	0	4	0	-4	0	0	3010	October	4	0	4	0	-1	0	3	3013
November	3	0	3	0	-2	0	1	2841	October	4	0	4	0	-1	0	3	3013	November	2	0	2	0	-2	0	0	3013
December	0	8	8	0	0	0	8	2849	November	2	0	2	0	-2	0	0	3013	December	2	0	2	0	0	0	2	3015
TOTAL	137	2	139	0	-6	0	133	2849	December	2	0	2	0	0	0	2	3015	TOTAL	25	1	26	0	-13	0	13	3015
1988																										
January	3	0	3	0	-2	0	1	2850	1993																	
February	7	0	7	0	-1	0	6	2856	January	1	0	1	0	-2	0	-1	3014	February	0	0	0	0	-2	0	-2	3012
March	5	2	7	0	0	0	7	2863	February	0	0	0	0	-2	0	-2	3012	March	1	0	1	0	-1	0	0	3012
April	10	0	10	0	0	0	10	2873	March	1	0	1	0	-1	0	0	3012	April	5	0	5	0	0	0	5	3017
May	7	0	7	0	-1	0	6	2879	April	5	0	5	0	0	0	5	3017	May	2	0	2	0	0	0	2	3019
June	6	0	6	0	0	0	6	2885	May	2	0	2	0	0	0	2	3019	June	2	0	2	0	-1	0	1	3020
July	2	0	2	0	-1	0	1	2886	June	2	0	2	0	-1	0	1	3020	July	2	0	2	0	0	0	2	3022
August	13	0	13	0	0	0	13	2899	July	2	0	2	0	0	0	2	3022	August	7	0	7	0	-3	0	4	3026
September	15	0	15	0	-2	0	13	2912	August	7	0	7	0	-3	0	4	3026	September	5	0	5	0	0	0	5	3031
October	6	0	6	0	-6	0	0	2912	September	5	0	5	0	0	0	5	3031	October	1	1	2	0	-2	0	0	3031
November	9	0	9	0	-3	0	6	2918	October	1	1	2	0	-2	0	0	3031	November	2	0	2	0	-1	0	1	3032
December	3	0	3	0	-5	0	-2	2916	November	2	0	2	0	-1	0	1	3032	December	2	1	3	0	0	0	3	3035
TOTAL	86	2	88	0	-21	0	67	2916	December	2	1	3	0	0	0	3	3035	TOTAL	30	2	32	0	-12	0	20	3035
1989																										
January	3	0	3	0	-4	0	-1	2915	1994																	
February	6	0	6	0	-3	0	3	2918	January	1	0	1	0	-1	0	0	3035	February	3	0	3	0	-1	0	2	3037
March	6	0	6	0	0	0	6	2924	February	3	0	3	0	-1	0	2	3037	March	7	0	7	0	-2	0	5	3042
April	6	0	6	0	-2	0	4	2928	March	7	0	7	0	-2	0	5	3042	April	0	0	0	0	0	0	0	3042
May	9	0	9	0	-2	0	7	2935	April	0	0	0	0	0	0	0	3042	May	0	0	0	0	-3	0	-3	3039
June	5	0	5	0	0	0	5	2940	May	0	0	0	0	-3	0	-3	3039	June	2	0	2	0	-3	0	-1	3038
July	5	0	5	0	-1	0	4	2944	June	2	0	2	0	-3	0	-1	3038	July	2	0	2	0	-2	0	0	3038
August	5	0	5	0	-2	0	3	2947	July	2	0	2	0	-2	0	0	3038	August	3	0	3	0	0	0	3	3041
September	3	0	3	0	0	0	3	2950	August	3	0	3	0	0	0	3	3041	September	6	0	6	0	-1	0	5	3046
October	2	0	2	0	0	0	2	2952	September	6	0	6	0	-1	0	5	3046	October	6	0	6	0	-3	0	3	3049
November	4	0	4	0	-3	0	1	2953	October	6	0	6	0	-3	0	3	3049	November	2	0	2	0	0	0	2	3051
December	2	0	2	0	-2	0	0	2953	November	2	0	2	0	0	0	2	3051	December	8	0	8	0	-2	0	6	3057
TOTAL	56	0	56	0	-19	0	37	2953	December	8	0	8	0	-2	0	6	3057	TOTAL	40	0	40	0	-18	0	22	3057
1990																										
January	4	0	4	0	0	0	4	2957	1995																	
February	4	0	4	0	0	0	4	2961	January	2	0	2	0	-6	0	-4	3053	February	7	0	7	0	0	0	7	3060
March	1	0	1	0	-2	0	-1	2960	February	7	0	7	0	0	0	7	3060	March	9	0	9	0	0	0	9	3069
April	0	0	0	0	0	0	0	2960	March	9	0	9	0	0	0	9	3069	April	5	0	5	0	0	0	5	3074
May	1	0	1	0	-1	0	0	2960	April	5	0	5	0	0	0	5	3074	May	16	0	16	0	-2	0	14	3088
June	7	0	7	0	-3	0	4	2964	May	16	0	16	0	-2	0	14	3088	June	3	0	3	0	0	0	3	3091
July	4	0	4	0	-2	0	2	2966	June	3	0	3	0	0	0	3	3091	July	8	0	8	0	-2	0	6	3097
August	4	0	4	0	-1	0	3	2969	July	8	0	8	0	-2	0	6	3097	August	12	0	12	0	0	0	12	3109
September	4	0	4	0	-2	0	2	2971	August	12	0	12	0	0	0	12	3109	September	5	0	5	0	-3	0	2	3111
October	5	0	5	0	-1	0	4	2975	September	5	0	5	0	-3	0	2	3111	October	10	0	10	0	0	0	10	3121
November	1	0	1	0	0	0	1	2976																		

VETOES PLACED BY BIRTH PARENTS - MONTHLY RETURNS

Adult Adoption Information Act 1985

Year	Mother	Father	Total	Expire	Cancel	Renew	Total	SumTotal	Year	Mother	Father	Total	Expire	Cancel	Renew	Total	SumTotal
1996									2001								
January	26	0	26	0	-1	0	25	3165	January	0	0	0	-5	0	1	-4	784
February	2	0	2	0	-2	118	118	3283	February	0	0	0	-1	0	1	0	784
March	9	0	9	-464	0	149	-306	2977	March	0	0	0	-5	0	1	-4	780
April	7	0	7	-267	0	48	-212	2765	April	0	0	0	-2	0	0	-2	778
May	12	0	12	-263	-3	22	-232	2533	May	0	0	0	0	-1	0	-1	777
June	4	0	4	-215	0	14	-197	2336	June	1	0	1	-3	0	1	-1	776
July	9	1	10	-243	-1	32	-202	2134	July	0	0	0	+1	-1	2	2	778
August	9	0	9	-791	0	28	-754	1380	August	0	0	0	-1	-2	1	-2	776
September	6	0	6	-383	-1	7	-371	1009	September	0	0	0	-3	0	0	-3	773
October	10	0	10	-43	-1	5	-29	980	October	0	0	0	-3	-1	1	-3	770
November	5	0	5	-31	0	1	-25	955	November	0	0	0	-1	0	1	0	770
December	3	0	3	-16	-1	0	-14	941	December	0	0	0	-2	0	1	-1	769
TOTAL	102	1	103	-2716	-10	424	-2199	941	TOTAL	1	0	1	-25	-5	10	-19	769
1997									2002								
January	3	0	3	-17	0	1	-13	928	January	0	0	0	-3	0	0	-3	766
February	2	0	2	-24	0	1	-21	907	February	1	0	1	+2	0	0	+3	769
March	1	0	1	-13	0	0	-12	895	March	0	0	0	-2	0	1	-1	768
April	1	0	1	-12	0	0	-11	884	April	0	0	0	-2	0	0	-2	766
May	6	0	6	-17	0	1	-10	874	May	0	0	0	-2	0	0	0	766
June	2	0	2	-11	0	1	-8	866	June	0	0	0	-2	-1	0	-3	763
July	5	0	5	-14	-1	3	-7	859	July	0	0	0	-3	0	2	-1	762
August	3	0	3	-6	0	1	-2	857	August	3	0	3	+2	0	0	+5	767
September	0	0	0	-3	0	3	0	857	September	0	0	0	0	0	3	+3	770
October	4	0	4	-7	0	0	-3	854	October	0	0	0	-3	0	0	-3	767
November	2	0	2	-1	-1	1	1	855	November	0	0	0	0	0	1	+1	768
December	0	0	0	-8	0	3	-5	850	December	1	0	1	-2	0	1	0	768
TOTAL	29	0	29	-133	-2	15	-91	850	TOTAL	5	0	5	-13	-1	8	-1	768
1998									2003								
January	1	0	1	-1	-2	0	-2	848	January	1	0	1	+1	0	0	+2	770
February	2	0	2	-6	0	4	0	848	February	0	0	0	+2	0	0	+2	772
March	1	1	2	-7	-1	1	-5	843	March	0	0	0	0	0	3	+3	775
April	2	0	2	-10	0	0	-8	835	April	0	0	0	-5	0	0	-5	770
May	2	0	2	-6	0	2	-2	833	May	0	0	0	-2	0	0	-2	768
June	0	0	0	-6	-1	1	-6	827	June	0	0	0	-1	0	0	-1	767
July	0	0	0	-1	0	2	1	828	July	3	0	3	-2	-2	0	-1	766
August	0	0	0	-13	0	1	-12	816	August	1	0	1	-4	0	1	-2	764
September	2	0	2	-13	0	0	-11	805	September	1	0	1	-5	0	0	-4	760
October	3	0	3	-0	0	1	4	809	October	0	0	0	0	0	1	+1	761
November	1	0	1	-6	0	2	-3	806	November	0	0	0	-1	0	1	0	761
December	1	0	1	+2	0	0	3	809	December	0	0	0	-3	0	1	-2	759
TOTAL	15	1	16	-67	-4	14	-41	809	TOTAL	6	0	6	-20	-2	7	-9	759
1999									2004								
January	1	0	1	+1	0	0	2	811	January	0	0	0	0	0	3	+3	762
February	0	0	0	-3	0	0	-3	808	February	0	0	0	-2	0	0	-2	760
March	4	0	4	-6	0	1	-1	807	March	0	0	0	-5	0	1	-4	756
April	3	0	3	-4	0	1	0	807	April	0	0	0	0	0	0	0	756
May	0	0	0	-7	0	0	-7	800	May	0	0	0	-3	0	0	-3	753
June	0	0	0	-5	0	3	-2	798	June	0	0	0	-1	0	1	0	753
July	1	0	1	-4	-1	0	-4	794	July	0	0	0	0	0	1	+1	754
August	1	0	1	-3	0	0	-2	792	August	1	0	1	-3	0	2	0	754
September	1	0	1	-3	0	0	-2	790	September	0	0	0	-5	0	0	-5	749
October	0	0	0	-2	0	0	-2	788	October	0	0	0	-3	0	2	-1	748
November	1	0	1	-1	0	3	3	791	November	1	0	1	-2	1	3	+1	749
December	0	0	0	-0	0	0	0	791	December	0	0	0	-6	0	10	+4	753
TOTAL	12	0	12	-37	-1	8	-18	791	TOTAL	2	0	2	-30	1	23	-6	753
2000									2005								
January	1	0	1	-4	0	0	-3	788	January								
February	0	0	0	-4	0	3	-1	787	February								
March	0	0	0	+1	0	1	2	789	March								
April	0	0	0	-0	0	0	0	789	April								
May	0	0	0	-0	0	3	3	792	May								
June	0	0	0	-4	0	3	-1	791	June								
July	0	0	0	-2	0	2	0	791	July								
August	0	0	0	-3	0	2	-1	790	August								
September	2	0	2	-2	0	0	0	790	September								
October	0	0	0	-4	0	0	-4	786	October								
November	1	0	1	-1	0	3	3	789	November								
December	0	0	0	-1	0	0	-1	788	December								
TOTAL	4	0	4	-24	0	17	-4	788	TOTAL								

*Note Vetoe Renewals 2004: June: 1 BM July: 1 Adoptee Aug: 1BF+ 2BM.

VETOES PLACED BY ADOPTED PERSONS ANNUAL RETURNS

YEAR	New Vetoes			10year			ActiveVeto	
	Male	Female	Total	Expire	Cancel	Renew	Total	SumTotal
1986	289	572	861	0	-8	0	853	853
1987	26	47	73	0	-6	0	67	920
1988	18	32	50	0	-13	0	37	957
1989	18	26	44	0	-11	0	33	990
1990	13	22	35	0	-14	0	21	1011
1991	17	22	39	0	-17	0	22	1033
1992	5	15	20	0	-15	0	5	1038
1993	6	15	21	0	-14	0	7	1045
1994	10	12	22	0	-13	0	9	1054
1995	8	37	45	0	-8	0	37	1091
1996			36	-853	-5	54	-768	323
1997			21	-67	-2	4	-44	279
1998			15	-37	-1	7	-16	263
1999			7	-33	-5	2	-29	234
2000			5	-35	-4	4	-30	204
2001			1	-40	-3	5	-37	167
2002			3	-19	0	6	-10	157
2003			8	-22	-2	5	+11	146
2004			2	-22	-1	+1	-20	126

VETOES PLACED BY BIRTH PARENTS ANNUAL RETURNS

YEARS	New Vetoes			10year			ActiveVeto	
	Mother	Father	Total	Expire	Cancel	Renew	Total	SumTotal
1986	2688	42	2730	0	-14	0	2716	2716
1987	137	2	139	0	-6	0	133	2849
1988	86	2	88	0	-21	0	67	2916
1989	56	0	56	0	-19	0	37	2953
1990	39	0	39	0	-15	0	24	2977
1991	45	1	46	0	-21	0	25	3002
1992	25	1	26	0	-13	0	13	3015
1993	30	2	32	0	-12	0	20	3035
1994	40	0	40	0	-18	0	22	3057
1995	97	0	97	0	-14	0	83	3140
1996	102	1	103	-2716	-10	424	-2199	941
1997	29	0	29	-133	-2	15	-91	850
1998	15	1	16	-67	-4	14	-41	809
1999	12	0	12	-37	-1	8	-18	791
2000	4	0	4	-24	0	17	-3	788
2001	1	0	1	-25	-5	10	-19	769
2002	5	0	5	-13	-1	8	-1	768
2003	6	0	6	-20	-2	7	-9	759
2004	2	0	2	-30	-1	+23	-6	753

Chance of Encountering an Active Veto

YEAR	AN ACTIVE VETO		ADJUSTED LEVEL OF VETO CONCERN				
	Birth Parent Application One chance in	Adopted Person Application One chance in	YEAR	Birth Mother Placed Active Veto	Adjusted Level of Concern	Adoptive Person Placed Active Veto	Adjusted Level of Concern
1986	61	19	1986	2716		853	
1987	60	19	1987	2849		920	
1988	61	20	1988	2916	2916	957	957
1989	63	21	1989	2953	2800	990	875
1990	65	22	1990	2977	2700	1011	770
1991	67	23	1991	3002	2375	1033	735
1992	70	24	1992	3015	2010	1038	625
1993	72	25	1993	3035	1750	1045	500
1994	75	26	1994	3057	1400	1054	400
1995	75	26	1995	3140	1100	1091	350
1996	260	89	1996	941	850	323	240
1997	309	102	1997	850	750	279	220
1998	336	109	1998	809	725	263	210
1999	386	114	1999	791	700	234	200
2000	451	117	2000	788	675	204	
2001	560	122	2001	769	650	167	
2002	608	124	2002	768	625	154	
2003	662	127	2003	759	620	146	
2004	777	130	2004	753	595	126	
2005			2005				

Proportion Male & Female Adopted Persons

YEAR	Placing a veto		
	Adopted Person Female Placed New Vetoes at 31st December	Adopted Person Male Placed New Vetoes at 31st December	Adopted Person Total M+F Placed New Vetoes at 31st December
1986	572	289	861
1987	47	26	73
1988	32	18	50
1989	26	18	44
1990	22	13	35
1991	22	17	39
1992	15	5	20
1993	15	6	21
1994	12	10	22
1995	37	8	45
1996			36
1997	No statistical breakdown of Male and Female adopted persons placing a vetos available since 1995		21
1998			15
1999			7
2000			5
2001			1
2002			3
2003			8
2004			2

NZ Official Year Book 2004 Table 7.12 Access to Adoption Information from 1994 to 2003.

Access to adoption information	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
<i>Action</i>										
Original birth certificates issued to adopted people	1,849	1,597	1,580	1,925	1,446	1,356	1,230	1,030	943	902
Original vetoes from adopted people	26	36	17	30	22	8	1	4	-	6
Renewal vetoes from adopted people	-	-	51	13	4	5	6	8	-	9
Cancelled vetoes from adopted people	14	8	17	-	2	3	5	1	2	2
Birthparent applications for identifying information	717	610	650	534	450	392	325	303	285	269
Original vetoes from birthparents	34	69	126	60	22	15	4	2	1	5
Renewal vetoes from birthparents	-	-	351	77	19	11	13	13	10	11
Cancelled vetoes from birthparents	15	14	10	2	6	1	1	1	5	-

Sources: New Zealand Official Year Book 2004 p127. It's Source: Department of Child, Youth and Family Services.

Note *Small variations between data tables:* Example- Sometimes this is due to recording the number of Applications for Original Birth Certificates, in other tables it is the number of Original Birth Certificates issued. There may also be a difference between the number of applications made and actual number processed for a given month. Sometime information has been backdated on the RG files and sometime not etc. KCG

CONTACT REGISTERS

Adoption Contact Register System

Griffith—“A Government Department or Agency establishes a National Adoptions Contact Register. Adoptees and Birth Parents send in their details regarding the birth date and place etc. When a match is found between birth dates and places contact is normally made through an Intermediary person appointed by the agency. The Jigsaw Organisation runs this system in N.Z. and Australia. Similar systems are working in U.S.A. and other countries.

The Adoption Contact Register system has very limited success because—

(a) Only a very small percentage of adoptees or birthparents apply. While many would welcome an approach there is often a great hesitancy about taking the initiating action.

(b) The system will work for only a few percent of applicants: Based on the experience of England, approx 1% of adoptees apply for their Original Birth Certificate per year. If the same proportion of adoptees and birth parents = 1% applied to have their names on a Contact Register, then on random sampling the chances of hitting the jackpot of mutual registration would be approx 1 in a 100. [Strike rate would improve as registrations per year accumulated.]

(c) Research in England indicates that most adoptees that apply for their Original Birth Certificate are not seeking a contact with a birth parent, so probably less than 1% of adoptees aged 18+ would register per year.

In the Australian State of N.S.W the State Government Contact Register [As at 1981] requires that all adoptees must first have written consent of adoptive parents before they can place their name on the Register, irrespective of the adoptees age. Thus a 40 year old adoptee has to obtain the written consent of say his 70 year old parents before his name can be placed on the Register. There are moves to have this Adoptive parents ‘veto’ over their adult children removed.”

Source Adoption, Procedure, Documentation Statistics and Adult Adoptee Access to Information. K C Griffith 1881 ISBN 0-473-00071-7. Appendix C.2 Section 3.

N.S.W. REUNION INFORMATION REGISTER

Adopted Persons Contact Register

NSW Law Reform Commission 1990—

4.151 In 1976 the then Department of Family and Community Services established the Adopted Persons Contact Register to assist people separated by adoption to make contact with one another. This was in response to pressure from within the adoption community for a means to facilitate those people finding each other. The practice was given statutory effect by amendments to the Adoption of Children Regulation in 1980. [Adoption of Children Regulations c112D]. By 1989, there were approximately 8000 people registered, 54% of whom were adoptees, 37% birth parents, and 7% relatives. In a small number of cases (currently 22) a desire for no contact was recorded as the only means then available for noting such wishes. The rate of matches was around 14%. [Willis Report at 51]

4.152 The Department considered that a major problem for the Adopted Persons Contact Register was the frustration of adoptees’ efforts to locate birth parents caused by reticence of birth parents in registering. The reasons most frequently given by birth parents were: the desire not to interfere in the adoptee’s life; a belief that the parent had relinquished all rights; an acceptance that the adopted person would come looking if they wanted to find the birth parent; ignorance of the Register’s existence; fear of rejection (mistakenly interpreting that if the adoptee is not on the Register he or she is not interested); and a feeling of a lack of entitlement associated with guilt over the surrender of the child. [Willis Report at 51] Another factor which affected the rate of reunion is the difficulty of locating people whose address held by FIS was no longer correct. As well, it was not uncommon for birth parents and adoptees to be falsely told that the other party was dead. Such people would not have thought to register. Successful matching depended on the accuracy and extent of information available, and no tracing was done. The Commission received evidence from several people who had been on the Adopted Persons Contact Register who did not believe that a match was likely, and from a small number who appeared not to have been matched despite both parties being on the Register.

Reunion Information Register

4.153 With the passage of the Adoption Information Act 1990 the Adopted Persons Contact Register was subsumed into the Reunion Information Register, established under Part 4 of the Act. The Register was renamed to distinguish the Adopted Persons Contact Register from the Contact Veto Register, and to indicate that it was neither exclusively for adopted persons nor about contact.

4.154 Entry on the Register is in accordance with the provisions of s32 of the Adoption Information Act 1990. Adult adopted persons and birth parents as defined in the Act are entitled as of right to have their names on the Register. Adopted persons under the age of 18 years (as young as 12 years) may have their names placed on the Register with the consent of their adoptive parents or the Director-General. Other people having an interest in an adopted person or birth parent, including relatives and others who have a significant but not legally recognised relationship with them may, at the Director-General’s discretion, be registered. Examples of people falling into the latter category are foster parents of a child who was subsequently adopted into another family, or a care-giver with whom a child who was later adopted had a close relationship. The Act allows a greater flexibility for other people to be on the Reunion Information Register than for them to obtain birth certificates. [cf s9(2)(b).] The Register is voluntary, ie a person must enter his or her own name. People who were registered on the Adopted Persons Contact Register have been transferred to the Reunion Information Register without the need to re-register.

4.155 Registration is covered by the fee charged for obtaining the original or amended birth certificate, provided that application is made within six months of that event. This procedure encourages the use of the Reunion

Information Register as a means of locating the other person, which can be a far less costly and difficult task than using other methods of searching available. Registrations have averaged 15 per day for the twelve months ending May 1992. Many others already on the Adopted Persons Contact Register have provided current contact details since obtaining an original or amended birth certificate. At that time there were 15,985 people registered.

4.156 Details supplied to FIS and Departmental records enable staff of FIS to identify the matching people. The rate of matching is presently still about 15%, although a higher rate should occur with larger numbers registering. Since the new legislation the information available is more accurate, and computerisation of records also contributes to the possibility of a greater success rate. Searches are made on mother's maiden name, adopted person's date of birth and court order number. FIS searches outside the records held by the Department only in limited circumstances. Where there is a match of names on the Register, the Director-General may make arrangements for a reunion. [s33(1)] Family Mediation Counsellors in the Family Information Service handle the process of putting parties in touch with each other. Each party is given the opportunity to withdraw from the Register at this stage, or to indicate the desired manner in which the contact should occur. It is the policy of FIS to approach the person who first registered his or her name, except where there is a contact veto, when the vetoer is contacted first. Whilst managing a reunion can be a straightforward matter of passing on information which allows the two parties to make contact with each other, usually there is a need for counselling or other assistance for one or both of the parties to prepare for or make the contact. This is most necessary where a person has simultaneously placed a contact veto and registered on the Reunion Information Register. This occurs where the adopted person or birth parent is not opposed to contact but wants to avoid the possibility of unexpected contact over which he or she can exercise little control.

4.157 Although there appears to be a perception that the Reunion Information Register is not an effective method of locating a person, it can be much easier than searching independently. The Commission's recommendation for an Adoption Information Exchange made in Chapter 7 would have an impact on the operation of the Reunion Information Register. It could be that checking the Register when a person applies for a certificate will become an automatic procedure.

Outreach

4.158 Outreach refers to the policy approved by the Department in 1981 (and given statutory effect in March 1987 by amendment of the Adoption of Children Regulations) of trying to locate a person not on the Register at the request of another separated from them by adoption." It was available for adoptees from 1981, and birth parents and relatives from 1988. In 1986 after several hundred outreaches had been made, restrictions were placed on the criteria for accepting outreach requests because of limited resources. Prior to commencement of the Adoption Infor-

mation Act 1990, the Department conducted outreaches in exceptional circumstances. These were likely to be where there was an urgent medical reason either to obtain or pass on information, an adopted adolescent was experiencing severe emotional or behavioural problems, or there were strong compassionate grounds relating to an exceptional degree of deprivation or loss. [Willis Report at 2] Out-reach occurred predominantly at the request of adoptees, less frequently of birth parents and occasionally for other relatives.

4.159 Since the Adoption Information Act 1990, FIS will undertake outreach only in the most exceptional circumstances. This policy recognises that one party will now have access to information which can be used to locate the other party. There have been approximately 40 cases since April 1991 and the person was found in approximately 90% of cases. Location of persons not registered occurs at the discretion of the Director-General. The Director-General must be satisfied that it will promote the welfare and best interests of the parties concerned, and that it is appropriate on medical, psychological or psychiatric grounds relating to a party on the Register, or on any ground relating to unusual or extreme circumstances. [s34(1)] The person at whose request the outreach occurs must agree not to undertake or continue searching independently.

[Note: Searching by FIS relies on inquiries to only certain authorities: Registry of Births, Deaths and Marriages, the Electoral Commission, the Department of Motor Transport, adoption agencies and information sources, Department of Social Security and the Police Missing Persons Unit.]

Source 'Review of the Adoption Information Act 1990' New South Wales Law Reform Commission. Report 69. Pub 1992 pp90-93

England- Adoption contact register 1991

All adopted persons in England, aged 18 or over were granted access to their original birth certificate of right by the Children Act 1975 section 26, consolidated under the Adoption Act 1976 Sec 51. In 1991 an additional provision was made for a contact register- including access by relatives.

Contact register results at 2001

Eekelaar— An Adoption Contact Register was introduced in England and Wales on 1 May 1991. Up to 30 June 2001, just under 20,000 adoptees and 8,500 relatives (mostly parents and siblings) had placed their names on the register. So more adoptees wish to contact their relatives after they grow up than the other way around. But relatively few succeed. During that period, 539 pairs of records were linked. A small number of relatives put their name on the register during the child's minority (although adopted children have to wait until they are 18 before doing so: most wait until they are about 30). Female relatives on the register are almost twice as likely to be mothers as male relatives are to be fathers of the sought-for adopted child, whereas male relatives were more than twice as likely as female relatives to be siblings or half siblings (Haskey, 2001). This system only works to the extent that both parents and child wish to make contact. Adopted children have no right to trace their birth parents,

though they may manage to do so through their birth certificate which they are entitled to receive unless the Registrar-General believes this would put the parents at significant risk. The Government has attempted to rationalise the basis upon which information is provided to adult adopted children: they will retain the right to the birth certificate (though the High Court may disallow it), and will be able to acquire information about their family at the discretion of the agency. Eekelaar 2003 p255

Reform slow to uptake import of contact

These attempts to track down blood relatives would not be necessary in cases in which contact was maintained between the adopted child and its natural family during childhood. Such contact is by no means rare. Contact of some kind (and there are many variations) is exercised by some 70 per cent of adopted children*. [*Gov PIU Report para 3.141] Nor is the judicial attitude hostile to so-called 'open' adoption. If adoptive parents agree, even informally, that they will allow contact between the adopted child and its natural family, they may find themselves held to it unless they have good reasons to withdraw their agreement. On the other hand, the judiciary is unwilling to impose a contact requirement on adoptive parents, which they see as unduly interfering with their freedom to bring up the child, and inconsistent with the unconditional nature of the natural parents' consent to the adoption [Re T (Adopted Children: Contact) 1995 2FLR251]. Thus if the adoption is threatened by pressing the contact claim, the claim will fail. This is in sharp contrast to the presumption of contact which applies when a child is looked after by a local authority and the general approach under private law. Yet as I have suggested, the significance of contact for the child is probably greater in the circumstances of adoption. So it is surprising that so little attention was paid to the issue of contact in the adoption reform. Eekelaar 2003 p255

Source John Eekelaar 'Contact and the Adoption Reform' in book 'Children and their Families: Contact, Rights and Welfare' - Ed Cambridge Legal Social Group 2003 p255

Access to birth records people adopted in UK

DSW— 13 For full information see the following leaflets prepared by Department of Health and OPCS, United Kingdom; ACR 101 Access to Birth Records- Information for adopted people living outside the United Kingdom. ACR 110 The Adoption Contact Register Information for adopted people and their relatives. ACR113 Access to Birth Records- Notes for Counsellors. For assistance with searching and contact in the United Kingdom, NORCAP, the National Organisation for the Counselling of Adoptees and Parents, is a non-profit organisation in Oxford. Although much of the work is done by volunteers, fees are necessary to cover costs.

The Adoption Act 1976 (UK)

13.1 Under this Act, people who were adopted in England and Wales, and are now aged 18 years or over can apply to the Registrar-General (UK) for access to the original record of their birth. Until 14 October 1991, the information was only available to adopted people actually living in the UK. The Children's Act 1989 (UK) which came into

force on 14 October 1991, made provision for this Department to be an approved organisation to provide adoption counselling for people adopted in the UK and now living in New Zealand, who would like to have access to their birth records. Counselling is not mandatory for people adopted in Scotland. People adopted before 12 November 1975 are required to see a counsellor before they can be given access to their records; if adopted after 11 November 1975, counselling is optional. The purpose of the counselling is: to give adopted people basic information about their adoption in a helpful manner, and to help adopted people to understand some of the possible effects on themselves and others of any further enquiries they may wish to make about their birth families.

How to apply for England and Wales

13.2 The adopted person writes to request an application form for access to adoption records to; The Office of Population Censuses and Surveys, The General Register Office Adoptions Section Smedley Hydro Trafalgar Road, Birkdale Southport PR8 2HH England. When this form is received, it requires completion with personal details which will enable the adoption records to be located, and with the name of the organisation that will undertake the counselling. The Department of Social Welfare (- give name of local AISU social worker and address of the local AISU office -) is recognised, and Barnardos organisations also. The adopted person then returns the completed form to the address above. Within about a month, the nominated social worker receives a package containing; appropriate guidance leaflets a copy of the application form including the name of the Court in which the adoption order was made an application form on which the adopted person may apply for a copy of his or her birth certificate an authorisation to enable the applicant to obtain the name of the organisation that arranged the adoption a form for the social worker to complete and return to show that counselling has taken place. All of the information provided is to be given to the adopted person. If he or she has no contacts in the UK who may help him, NORCAP is the best resource we can recommend for assistance with search and contact. There are costs involved with this.

How to apply for Scotland

13.3 Scottish adopted people may obtain an application form from; The General Register Office (Scotland) Adoption Section New Register House Edinburgh EH1 3YT Scotland As counselling is not compulsory, the information will be sent directly to the adopted person.

Role of the Wellington Adoption Information and Services Unit

15. All applications under the Adult Adoption Information Act which require co-ordination and consultation with the Registrar-General are made to the Wellington Office. They are: Section 8 Section 9 Section 11. In addition: The Unit handles any requests for information from the Registrar-General's office; liaises with the Registrar-General's office on the preparation of the list of approved counsellors (both departmental and independent) for distribution to applicants requiring counselling; holds letters of explanation for vetoes placed by birth parents or adult adopted

people. Receives requests for letters of explanation for vetoes placed by birth parents and adult adopted people. Maintains a list (as advice is received from the Registrar-General) of any vetoes removed before expiry date, and notifies the other party where possible.

15.1 Access to records

The Wellington Unit responds to requests from other districts for information which may be held in closed Head Office records, or in the Department of Internal Affairs National Archives Records Centre. Please note that these records are likely to contain minimal information as not only were they, in many cases, set up for a different reason (e.g. a maintenance record) but the value of the keeping of adequate family histories was not appreciated.

Source Adoption Information Manual CYPSSDW 1995. **U.S.A**

Sealed records

Russell— USA. In adoption, the original birth certificate of the adopted person is sealed by law after an amended birth certificate is produced. The adoptee's original birth certificate contains the name and information of the birth mother and may list information about the birth father. The adoptee may be given a first name by the birth parent on the original birth certificate and will have the last name of a birth parent. If not given a first name, the adoptee will be known as Baby (birth parent's last name). *Russell* 1996 p28

The amended birth certificate replaces the original birth certificate and lists the adoptive parents' information as if they were the biological parents. The original birth certificate is sealed by the courts and can not be released except by court order. *Russell* 1996 p29

Adoptees are the only Americans who do not have access to their original birth certificates. If an adoptee requests his or her original birth certificate, they will be told it is off-limits to them and will receive a copy of their amended birth certificate. *Russell* 1996 p29

Originally, records were sealed to protect all the parties involved. It was thought that an adoptee born out of wedlock would suffer societal consequences. It was felt that birth mothers needed privacy about the fact that they had been pregnant. Amended birth certificates allowed adoptive parents to act as if they had given birth to their child and protected them from the stigma of infertility and adoption. *Russell* 1996 p29

Source Marlou Russell 'Adoption Wisdom' 1996 pp28-29

ADULT ADOPTION INFORMATION ACT RESEARCH

Jill Kennard—

Researched the operation of the Act concerning adopted persons. The following are extracts from, *Adoption Information: The Repossession of Identity*. Thesis, MA (Applied) Social Work Victoria University Wellington 1991

Abstract

“This thesis looks at what adult adopted people have done with the information three years after receiving their original birth certificates, and what relationships developed if they made contact with members of their birth families. It also looks at how the Act has worked for them and their views on some of its provisions such as vetoes and compulsory counselling. Also included is background information on the history of adoption in Western societies and the development of adoption in New Zealand, as well as a review of the relevant literature. One hundred and forty seven people from throughout New Zealand (and overseas) completed a mailed questionnaire and the information they gave formed the basis of the study. This study adds to the growing body of overseas evidence which recognises the fundamental necessity to most adopted people of knowing about their birth families, as well as the overwhelming satisfaction of most people at being able to do so. It illustrates the differences between studies carried out under a closed adoption system and an open one. It also helps dispel some myths about adopted people, their adoptive parents, their birth parents and the use of professional mediators. The implications for practice are discussed and suggestions are made with regard to future research and law changes.” p.ii-iii

Sample 145 adopted persons

105 Women (72.4%) 40 men (27.6%) Had applied at least 3 years previously for their birth certificates under the Act. Avoided initial 2 month very high peak applications as these eager applicants may not be typical. Took 300 random sample, early November 1986. Three and a half years later 145 were located and willing. Questionnaire used was modified Haines and Timms- 1983 survey in England- 97 Questions.

Results. Extracted and tabulated next 3 pages.

Conclusions

— Further Research

“This is an exploratory study where information was obtained by way of a written, anonymous questionnaire. This method has provided a large amount of base-line data. However, in-depth information gained from personal interviews would add the depth and detail that is impossible in this type of study. Research carried out in New Zealand is of particular value as most adoption research completed to date relates to countries where the adoption records are closed. It is essential that research in this area continues, as adopted people and their relatives seek to rectify past mistakes.

— Legal Implications

Generally the Adult Adoption Information Act 1985 is working well for adopted people. Most were unwilling to make suggestions for streamlining it in case they lose some of the legal rights made compulsory to protect against a myth. There is every indication that adopted people are very careful and considerate about making contact with birth parents, and that they will seek counselling if they want it. Counselling (information giving) must be available, but its compulsory nature suggests adopted people are irresponsible, a finding that is not supported by this research. The damage caused to adopted people and their families by secrecy, lies, unwillingness by adoptive parents to discuss adoption, and the negative attitudes of other relatives was described by many. The 1955 Adoption Act contributes to this by encouraging a climate of secrecy and creating a legal lie. Our lawmakers have a responsibility to draft legislation that is suited to the needs of adopted people and takes current knowledge into account.

— Implication for practitioners

Like lawmakers, practitioners have a continuing responsibility to address the problems caused by secrecy and evasion when working with adoptive parents at all stages of adoption.

Professional counsellor’s role as a mediator was shown to be largely unnecessary. Adopted people who themselves made the initial contact with the birth relatives achieved a considerably higher level of success than mediators, and also had the chance of a unique personal experience.

Many adopted people were unclear on the choices they had at various stages of the process eg., whether counselling can be by telephone; which counsellor; whether they could see a counsellor more than once; and the various options for making contact. These were all areas where many adopted people did not realise they had choices. As well as being clear initially about the possible options, counsellors need to be sure that the adopted person had heard, understood and remembered what is being said, and if necessary to repeat it or write it down.

Summary

— The High level of interest among adopted people in adoption and access to information was evident in the high response rate to the questionnaire.

— Almost everyone intended to search when they applied for their original birth certificate. Adopted people reported overwhelming satisfaction with their decision to search, and a very large proportion of those who searched then tried to meet.

— For the majority of adopted people, relationships developed with their birth relatives and were ongoing. Almost 40% of adoptive parents had met one or more of their adopted son or daughter’s birth relatives, and half of these had formed ongoing relationships.

— No correlation was found between the adopted person’s need to search and any of the following- whether they had lived with their birth mother prior to adoption; they were raised as an only child; the age they learnt of their adoption; or happiness or unhappiness in their adoptive family.

Research Adult Adoption Information Act 1985 Jill Kennard 1991				Time from when First Thought of Learning More until they Applied		
Age of Adoptee Applicants Sample				Time	Numbers	Percent
Age	Numbers	Percent				
20-24	6	4.1%	Less than 1 year	39	26.9%	
25-29	30	20.7%	1 year and less than 5 years	14	9.7%	
30-34	25	17.2%	5 years and less than 10 years	9	6.2%	
45-39	13	9.0%	10 years and less than 20 years	17	11.7%	
40-49	47	32.5%	20 years and less than 30 years	7	4.8%	
50-59	16	11.0%	More than 30 years	10	6.9%	
60-69	7	4.8%	After the law changed	39	26.9%	
70 and over	1	0.7%	Unknown	10	6.9%	
Total	145	100%	Total	145	100%	
Education				Intention at Time of Application		
Highest level of education				Intention	Numbers	Percent
	Numbers	Percent				
Secondary school	52	35.9%	To learn more	42	29.0%	
School Cert or University Entrance etc	33	22.7%	To meet birth relatives	81	55.8%	
Vocational training	11	7.6%	Had already met	10	6.9%	
Tertiary	48	33.1%	Undecided	10	6.9%	
Unknown	1	0.7%	Do nothing further	2	1.4%	
Total	145	100%	Total	145	100%	
Occupations				Age Placed with Adoptive Parents		
Type of occupation				Age	Numbers	Percent
	Numbers	Percent				
Professional or semi-professional	38	26.2%	Under 1 month	81	55.9%	
Clerical, sales, or technician	40	27.6%	1 to 3 months	17	11.7%	
Skilled or semiskilled			3 months to 1 year	27	18.6%	
Manual worker	13	9.0%	1 year to 3 years	9	6.2%	
Domestic incl not in paid employment	44	30.3%	Unsure	1	0.7%	
Unknown	10	6.9%	Unknown	2	1.4%	
Total	145	100%	Total	145	100%	
Children in Adoptive Family				Makeup of Adoptive Families		
Number of Children				Children	Numbers	Percent
	Numbers	Percent				
Only child	36	24.9%	All adopted	94	64.8%	
2 children	54	37.2%	Adopted + birth child	43	29.6%	
3 or more children	54	37.2%	Adopted + step child	3	2.1%	
Unknown	1	0.7%	Adopted + Birth and step child	2	1.4%	
Total	145	100%	Adopted + other children	3	2.1%	
Age Learnt of Adoption				Total	145	100%
Age	Numbers	Percent	How they learnt of their Adoption			
			How	Numbers	Percent	
Under 5 years	57	39.3%	Always knew	12	8.3%	
5 years and under 13	52	35.9%	Adoptive mother only	34	23.5%	
13 years and under 20	19	13.1%	Adoptive father only	4	2.8%	
20 years and over	14	9.6%	Both parents	56	38.6%	
Unknown	3	2.1	Relatives	7	4.8%	
Total	145	100%	Siblings	1	0.7%	
Life Events/Occasions that increased Interest in Origins				Friend / neighbour	9	6.2%
Event	Numbers	Percent	Nobody but suspected it	6	4.1%	
			Accidental	6	4.1%	
Pregnancy or birth of child	71	49.0%	Other	8	5.5%	
Applying for birth certificate	66	45.5%	Unsure	2	1.4%	
Becoming adult	60	41.5%	Total	145	100%	
Need for medical treatment	57	39.3%	Who made the First Contact			
News media publicity	47	32.4%	Who	Numbers	Percent	
Becoming a teenage	37	25.5%				
Birthdays	32	22.1%	Self	64	61.0%	
Death of adoptive parent(s)	25	17.2%	DSW Counsellor	11	10.5%	
Beginning or ending a relationship	20	13.8%	Independent Counsellor	4	3.8%	
Contact with a support group	18	12.4%	Friend	5	4.8%	
Beginning school	5	3.4%	Partner	10	9.5%	
(Totals add over 100% as most ticked more than one event)				Others	10	9.5%
Who they most wanted to Meet				Unknown	1	0.9%
Most wanted to meet	Numbers	Percent	Total	105	100%	
			Data Source. Jill Kennard 'Adoption Information: The Repos- session of Identity'. Thesis Master of Arts (Applied) in Social Work Victoria University of Wellington 1991.			
Birth mother	116	80.0%	Sample. Returns from 145 adoptees who applied for their Original Birth Certificate under the Adult Adoption Information Act. See Thesis for limitations, and detail of above data.			
Birth father	51	35.2%				
Siblings	41	28.3%				
(Totals add over 100% as many listed more than one person)						

Kennard data— cont			Relationship with adoptive parents re placement age		
Sample sex			Placed <1 mth- very or reasonably close 56.8%		
Women	105	72.4%	Placed 3 months to 1 year		
Men	40	27.6%	Close or reasonably close to AM 37%		
Lived with BM prior to adoption			Close or reasonably close to AF 25.9%		
Lived BM 1 month or more	25	17.3%	Relationship with adoptive parents during search		
Never lived with BM	108	74.5%	Still living AM=89 AF=79		
Makeup of Adoptive Families			Mildly or strongly supportive AM 35 39.3%		
Parents living together	50	34.5%	Mildly or strongly supportive AF 23 29.1%		
One or both parents had died	84	57.9%	Neutral AM 9 10.1%		
APs divorced or separated	11	7.6%	Neutral AF 11 14%		
All children in family adopted	94	64.8%	Mildly or strongly opposed AM 8 9%		
Positive adoption experience	101	70%	Mildly or strongly opposed AF 5 6.3%		
Felt something missing in family	20	13.8%	Not telling adoptive parents of search		
Felt unwanted or unloved	6	4.1%	Had not told AM of search 35 39.3%		
Negative experience	5	3.4%	Had not told AF of search 39 49.4%		
Of 24 people over 50y 10 didn't know they were adopted until at least 20yrs	10	41.6%	[Combined total 44% APs not told]		
Telling- either positive or neutral	89	61.4%	Relationship with adoptive parents after reunion		
Upset about adoptive status	31	21.4%	97 met birth relatives. [AM=85. AF=75 still living]		
Want to meet birth family member	136	93.8%	One or both APs knew of reunion 47 48.4%		
Met birth family before application	15	10.3%	Adoptive mother supportive 36 42.3%		
Intend to search	90%		Adoptive father supportive 23 30.6%		
Undecided (<2% definite no search)	10%		Adoptive Mother against reunion 10 11.8%		
Results of searching			Adoptive father against reunion 11 14.6%		
Satisfied or delighted	92	71.3%	Relationship with APs at time of sample [3+ years later]		
Neutral about searching	20	15.5%	[Total living 162 AF=76. AM=86]		
Disappointed but no regret	14	10.9%	With AM positive change 6 7%		
Regretted search	1	<1%	With AF positive change 3 4%		
Decide to contact after relative found	107	82.9%	With AM Adversely changed 6 7%		
Contacted birth mother first	70	66.7%	With AF Adversely changed 5 6.6%		
Use of mediators			Relationship with marriage partner after reunion		
First contact made by self	64	61%	Those who changed 85% positive 15% negative.		
Used mediator or third party	40	38.1%	Adoptee Applicants view of adoption		
Response to self v mediator			At time of participating in study		
Self positive 47 out of 64		73.4%	Positive about adoption 100 69%		
Mediator positive 21 out of 40		52.5%	Mixed about adoption 29 20%		
First contact with birth relative			Negative about adoption 9 6.2%		
Telephone	49	46.7%	No answer 7 4.8%		
Letter	43	41%	Feeling as a child about being adopted		
Unexpected visit. 4 self. 5 mediator	9	8.6%	Positive feelings 91 62.7%		
Positive responses to medium used			Mixed feeling 31 21.4%		
Letters		67.4%	Negative feelings 12 8.3%		
Telephone calls		53%	Indifferent 2 1.4%		
Unexpected visit		44.4%	Not sure 4 2.7%		
Response received to first birth contact			No answer 5 3.4%		
Totally positive and unforgettable	61	58%	Support Groups		
Mixed response, one neutral	19	18.1%	Knew they existed 51 35.2%		
Negative response	12	11.4%	Of these attended at least 1 meeting 37 72.6%		
Negative and all contact refused	9	8.6%	Knew was no group in their area 14 27.4%		
In summary- Mixed or positive		76.2%	Experience attending support group		
Negative response		21%	Helpful 23 62.2%		
Response to continuing contact			Neutral 5 13.5%		
Initial response did not change	50	47.6%	Unhelpful 6 16.2%		
Response became more positive	36	34.3%	Attendance 75% women 25% men		
Response became more negative	7	6.7%	Men found group unhelpful 4 of 9 44.4%		
Relationships with adoptive parents			Women found group unhelpful 2 of 28 7.1%		
Wanting to know more re birth parents			Men found group helpful 5 55.6%		
Discussed with adoptive parents	92	63.4%	Women found group unhelpful 18 64.3%		
Discussion positive	49	53.3%	Women who were neutral 5 17.9%		
Positive % of total 145 sample		33.8%	Of total sample- in their area they had		
Neutral response	3		Attended a group meeting 25%		
Negative response	23	25%	Knew of group in their area 35%		
Relationship with adoptive parents Before applying for birth certificate			Knew was no support group 10%		
Adoptive mother had died	46	25.5%	Not sure 55%		
Adoptive father had died	46	31.7%	Vetoes		
Of those AP alive AF=99 AM=108			Should be allowed 94 64.8%		
Very or reasonably close to AM	69	63.9%	Should not be allowed 47 32.4%		
Very or reasonably close to AF	67	67.7%	Not sure 4 2.8%		
[48 very close to AM. 37 to AF]			Number that had placed a veto 3 2.1%		
Reasonable to very distant AM	12	11.1%	Data Source Jill Kennard 'Adoption Information: The Repossession of Identity'. Thesis Master of Arts (Applied) in Social Work Victoria University of Wellington 1991		
Reasonable to very distant AF	13	13.1%			
Casual relationship with AM	21	19.4%			
Casual relationship with AF	15	15.2%			

Adoption Myths

The information gathered helps to dispel a number of the prevalent myths about adoption and adopted people.

— A large majority had wanted to know more about their origins for some time. The introduction of the Act did not trigger their interest.

— Adopted people of all ages wanted to know more about their origins. Wanting to know is not something that increases or lessens with age.

— For most people, finding out more was not enough, they needed to meet and get to know their birth relatives.

— Adopted people who made the initial contact themselves got more positive results than mediators. Adopted people are very capable of making successful contact and do not need mediators to do it for them.

— Many adopted people did not tell their adoptive parents they were searching or meeting birth relatives as, although they were clear that they had the right to search, they did not want to hurt or upset them. This is not underhand behaviour or a symptom of a poor relationship, it is more likely a sign of the adoptive parents' anxiety and fear.

— There was little change in existing relationships between adopted people and their adoptive parents. Meeting birth relatives does not threaten the adoptive relationship which is most likely to remain the same.

— A significant number of adoptive parents have been in contact with their adopted son or daughter's birth relatives, and many have established ongoing relationships. Adoptive and birth parents do not have to be in a conflict situation. It is instead a unique opportunity for both.

— Adopted people can successfully integrate two or more families into their lives. Finding their birth relatives does not mean they relinquish their adoptive ones.

— Only one person regretted searching. Regardless of what they learn, almost all adopted people do not regret searching.

— The willingness of adopted people to see the birth parents' right to privacy as being more important than their own right to information, as well as their unwillingness to hurt their adoptive parents was apparent. This shows that adopted people are not selfish and inconsiderate.

Because adopted people and their birth relatives have been invisible in our society for so long, widely held beliefs have developed which speak on their behalf, and which attempt to protect the adoptive relationship. The challenge for all people involved in adoption is to listen to those directly affected by adoption. If people are aware that there are many widely held beliefs that are myths, they can then begin to question. The second challenge is to alter their practice accordingly." pp124-128

Source Jill Kennard 'Adoption Information: The Repossession of Identity'. Thesis for Master of Arts (Applied) in Social Work Victoria University of Wellington 1991.

Iwanek Conclusions

"There is no doubt that the Act's objective of providing for greater access to information has been achieved and the number of applications was much higher than could ever have been predicted. The number of applicants demonstrates the great need for information for adopted people and their birthparents. Thereby dispelling the myth that only a small minority will seek information. One can only conclude, therefore, that the provisions in the Act and the manner of implementation, together have ensured that the aims were achieved. However, on closer examination there are some critical points which have emerged as a result of this study. These are:

— Clarity of the statutory objectives

Although the statute is clear in its aims, it is unclear about some of the tasks that have to be performed. This has meant leaving the defining of the task to the interpretation of the implementors. In this case those implementing the Act used a consultative process involving consumers and other interested parties who had the knowledge and expertise and who had been involved in promoting the Act. They defined the terms and helped establish procedures and principles as a guide for those delivering the service. The choice of this process had been that of the implementors who could equally have chosen a different direction without consultation as so often is the case. This could have resulted in a totally different outcome. An example of this is in the state of Victoria, Australia. The provisions of their Act are the same as those in New Zealand. However, through the implementation process, bureaucracy and the professional interpretation of the tasks resulted in applicants experiencing delays from seven to eleven years. The experience in Australia demonstrates the need for clear guidelines and statutes so that interpretation and definitions of the tasks are clearly set out and ranked. Phrases like "counselling", or "without undue effort", cause great difficulties in interpretation. Although the Implementation Committee made a decision as to meaning, there is no guarantee, that individual workers will not re-interpret their task according to their own preferences, beliefs, biases and prejudices. Applicants are therefore in a vulnerable position. Currently consumer groups act as a watchdog and would soon respond to any deviation. This may not always be the case.

— The model suggests that the principle difficulty facing statutory implementors is obtaining compliance from target groups

The Act was introduced at the initiation and lobbying of target groups. They had agreed to the compromises made to have the Act passed in parliament, therefore compliance with the requirements of the Act could be expected. Research data from the field suggests however, that there was considerable noncompliance in relation to the veto provisions. Adopted people receiving a veto do not accept this and will embark on a search and make contact regardless of the presence of such a veto. This raises the question of whether government, by way of statute, should be involved in regulating the behaviour between adults in the way it has attempted to do this. It has created false expect-

tations by those who place the veto as it is clear information is available to people that governments can never prevent from being used.

— Compliance with the statute from birth mothers is also not what was expected

The data so far collected shows that birthparent applications are far less than those of adopted persons. The department, however, has received several thousand letters from birthparents, giving indications and wanting it to be noted on files, that they were available for contact but did not wish to make the first move. Therefore compliance by birthparents under the statute has not been as great as could have been expected. The reason for this can only be assumed from the data presented by Preston (1989). Further data will need to be obtained to ascertain how best birthparents can be serviced in giving them access to information. The field research demonstrates that the provision of mediation services was very rarely required and that most people are capable to carry out their own searching and contacting.

— The counselling task

had been defined as information giving and support, not therapy. From the numbers applying it would seem that the requirement for compulsory counselling did not prevent people from coming forward and applying for identifying information. The counselling provisions were made because of a concern that adopted people may be emotionally unstable, or act irresponsibly, when searching for and making contact with their birthparents. Feedback from the field research clearly demonstrates that counsellors and social workers do not consider adopted people are emotionally unstable, or insensitive, or irresponsible in their approach to making contact. Should social workers' time be spent on providing counselling that has proven not to be essential? This does not mean the information given in counselling is not helpful or necessary for the adopted person about to embark on a search. Is compulsory counselling however, the most appropriate way of disseminating information? The fact that most people only have contact with their counsellor once, indicates that most information can be given in one short counselling session. Are there other alternatives, which would enable people to gather the information they need without using the costly compulsory counselling services currently demanded by the statute?

— Birth fathers

The field research has shown that adopted people are increasingly asking for information about their birthfathers. Birthfathers are increasingly coming forward to obtain information or make contact with their son or daughter placed for adoption. More publicity and education is required to inform birthfathers of their rights.

— Support groups have a major role

The field research demonstrates that the involvement of support groups has played a major role in the provision of service. They give support to applicants, both birthparents and adopted people and others, in their search and mediation tasks. It has been shown that independent counsellors, particularly in the first two years, carried out nearly half of

the work of issuing of original birth certificates and providing support for adopted people. Social workers agreed, as do independent counsellors, that without the ability to refer people to support groups, delays in servicing applicants with their certificates would have developed. There are indications that the service is becoming more 'professionalised'. The lack of publicity has resulted in the public being unaware of independent counsellors as alternatives to Department of Social Welfare social workers. The under utilisation of community support for a programme means that this support will be withdrawn and lost in the future unless it is recognised and rewarded in some way. Support groups need ongoing support and encouragement for without it, they are likely to become inactive which would be detrimental to the service over all but particularly to adopted people and birthparents.

— Extended family applicants

The data shows that the passing of the Adult Adoption Information Act has encouraged members of the extended families of adopted people also to embark on a search. Currently many members of extended families are asking for identifying information, which under the provisions of the Adult Adoption Information Act, they cannot have. This had not been anticipated when the Act was passed, or by the implementors. It is clear that an increasing number of people feel the need to search for siblings, grandparents or grandchildren. Particularly in the case where a birthmother may have died or where an adopted person has died and the adoptive parent wishes to contact the birthfamily.

— Under age applicants

Although the Act provides for people at the age of twenty and over to apply, many enquiries are coming forward from those under the age of twenty. It is clear that the age of twenty does not act as a deterrent for those younger to embark on a search. Many of those have the support of their adoptive parents.

— Separate procedures for birthparents and adopted people?

The data suggests that the separate procedures for birthparents and adopted people, demands much of departmental workers' time and energy. It also demonstrates that a considerable number of applications result in the department being unable to trace the adopted person. The procedure as a whole has proven to be cumbersome, time consuming and therefore expensive. It is currently not known how much the programme costs. The original reason for this procedure was to avoid unexpected contact in cases where the adopted person had not been told of their adoption, but the data shows this situation to be very rare. In cases where it did happen the adopted person wanted immediate contact with the birthparent. It is therefore questionable whether a separate procedure, which makes people dependent on the state for doing tasks they are capable of doing themselves, is needed.

— Cost effectiveness

There is currently no way to measure the total cost of the programme. Estimated costs range from \$750,000 to \$1,000,000 per year. (Information obtained from Head

Office and District Office Managers). The data suggests that service delivery is equally shared between the government and the voluntary sector. The underlying philosophy of the programme has encouraged independence rather than dependency on services. Feedback from the field workers indicates that this is carried over in practice.”

Source Iwanek 1991 Thesis Ch.6.

Selective use of research

Weiss* also questioned politicians about the use of research results and to what extent they had been influenced in their decision to support a proposed programme because of research finding. She reports that if research results confirmed what they already believed, decision makers or politicians having to vote on an issue would use it. If the research disclosed something they were predisposed to accepting, then the research is likely to get serious attention...If the research was against what they personally believed, it would be outright rejected or discredited. “Decision makers tend to use research only when its results match their preconceptions and its assumptions accord with their values”. Iwanek 1991 Ch3.

*Weise CH, paper “Where Politics and Evaluation Research Meet” in *The Politics of Program Evaluation*. Palumbo DJ, London, Sage Publications 1987.

Findings about searching adoptees- Kennard

— There appeared to be no correlation between whether or not a person had lived with their birth mother prior to their adoption and the desire to search.

— There appeared to be no correlation between status of adoptive parents died, separated or divorced.

— There was no correlation between number of other children in the adoptive family and the adoptees desire to search. Overseas study had suggested one child family adoptee’s were more likely to search.

— Adoptee perception of adoption, 70% perceived adoption in their growing up years as positive.

— The need to know is not linked in any way to the age at which people learned of their adoption.

KCG- I believe the main explanation for differences between overseas studies and Kennard’s findings is the large change in public perception of adoption toward openness. In England the class structure is still strong, and birth mothers are yet to be rehabilitated in society.

Age response of applicants

Kennard’s sample was evenly spread across age groups up to 50 years old. Indicating that the need for origins is not restricted to any particular age group and that people of all ages felt able to use the provisions of the Act.

Jeff Field Research—

The following are extracts only- see Research Paper for full detail, processing, limitations and references.

— Adjustment of birthmother and reunion

“A main objective of this study was to compare the emo-

tional well-being of mothers who had already experienced a reunion with children relinquished two to four decades ago, with that of mothers who were still waiting the possibility of such re-contact. A nationwide postal survey was carried out in New Zealand of the relinquishment experiences and subsequent adjustment of 238 women who had been able to re-contact their children and of 206 women who had not as yet made contact...”

Previous studies of the long term psychological well-being of relinquishing mothers in Australia and New Zealand have suggested that a significant proportion of such women may remain adversely affected for decades after the relinquishment and some may even show deterioration in mental health over time... Nevertheless, it is widely acknowledged that in the case of closed adoption procedures there may be serious impediments to the process of grieving for the losses experienced around the time of the relinquishment. In particular, it has been pointed out that birthmothers’ relinquishment experience places them in a position where they have not been able to ‘say a final good-bye’ and they can be left wondering whether one day they will somehow be reunited with their relinquished son or daughter. Lack of information about the well-being of the child also enables the development of concerns and fantasies about the child’s health and development, which may augment feelings of guilt about the adoption...”

— Sampling

The sample was recruited from the total 2,024 mothers who approached the Department of Social Welfare in New Zealand for identifying information about their relinquished children between September 1986 and March 1989. see Paper for detailed procedures.

— Pregnancy experiences

When asked about the availability of ‘help of an emotional kind’ at the time of pregnancy, 71% of the women recalled getting ‘only a little’ or ‘none at all’. A quarter of them reported that they did not see their newborn son or daughter at all before relinquishment and an additional 24% said they never held their baby after the birth. When asked to what degree they felt adoption was based upon their own personal decision 60% also reported feeling little or no choice about giving up their children for adoption. 69% of respondents said they could not recall either getting any emotional support, or having any opportunity to talk to others freely, immediately after the relinquishment.

— Reunion experiences

Looking back at their first reunion, 26% of respondents reported feeling ‘not at all’ or ‘not very well’ prepared for the experience. A total of 32% of adoptees were rated as similarly unprepared for the initial reunion by their mothers. On the other hand, 42% of birthmothers felt that they themselves were well prepared and 31% considered their daughter or son well prepared. With regard to the use of counselling services at the time of reunion, 47% of the post reunion group said they did not receive any ‘counselling or support from either a self-help agency...or professional’ before the initial reunion, and 75% said they did not get any help after reunion...When asked how sat-

isfied overall they were with the renewed contact with their child, 61% were 'totally' or 'very satisfied'. 23% were 'moderately satisfied', while only 16% reported being 'not very' or 'not at all satisfied'. Although a majority of the mothers who had experienced renewed contact reported feeling very satisfied, 107 of them gave at least one reason for some dissatisfaction with the new contact.

Note that the most common reason for some dissatisfaction with the renewed contact related to inaccessibility. Thus, we can see from the Table 2, that 43% of the 107 women who expressed some particular dissatisfaction with the reunion mentioned physical distance problems or infrequency of contact as the main cause of such dissatisfaction and a further 25% cited difficulty in developing feelings of closeness as a major dissatisfaction. It is also noteworthy that the open-ended comments of the mothers in this survey generally indicated widespread sensitivity among birthmothers to the potential concerns of adoptive parents over the reunion.

— Searching and the benefits of information

There was strong support in this study for a conclusion drawn by earlier investigators: birthmothers' adjustment to relinquishment is facilitated by knowledge about the well-being of the child they gave up for adoption. Not only was a lack of information associated with the predictably higher feelings of guilt, but mothers lacking information also had significantly lower psychological well-being scores than those who had at least non-identifying information. This finding confirms the mental health significance of the access in knowledge that is now potentially available with the more open adoption practices that are common in New Zealand today. A second finding was that the post-reunion group of mothers perceived themselves as having higher levels of emotional support and reported feeling more positive about 'adoption events at the present time. The results also accord with the findings of Winkler & Von Keppel's Australian survey that the absence of opportunities to talk through feeling about past adoption events was associated with worst adjustment in pre-reunion women...It would seem that the process of searching for and re-contacting a relinquished child are almost invariably associated with opportunities to talk through feelings about the adoption events with family and others. These opportunities to talk more openly and express feelings seem to be a crucial component of the enhanced psychological adjustment of birth-mothers who have been able to re-contact their children...

— Adjustment after initial reunion

This study provided some confirmation that there is commonly a kind of 'honeymoon' period experienced at the time of the first reunion. Initially more intensive positive feelings at the time of the reunion were eventually followed by a more stable reduction in positive effect about the re-contact. This appears to be part of the adjustment to the different long term life circumstances and attitudes of each party to the reunion. A clear majority of the birthmothers in this study who had experienced a reunion expressed high satisfaction overall with the renewed contact. The main dissatisfaction expressed by mothers

Main reasons for birth mother dissatisfaction with renewed contact

Negative attitude of adoptive parents or relatives of the adopted person	8.4%
Negative aspects of the adopted person's behaviour other than delay in re-contact	17.8%
Distance causes problem with frequency of contact	20.6%
Infrequency or delay in re-contact by adopted person after initial contact	22.4%
Problems in achieving a satisfyingly close personal relationship with the adopted person	25.2%
Regret about lost relationship or parenting opportunities	2.8%
Other	2.8%

about renewed contact was in the area of difficulties in developing closeness with their sons or daughters. The factors leading to this difficulty varied in nature. Apart from those mothers who mentioned directly that they had experienced problems in developing feelings of closeness, one fifth of those expressing dissatisfaction cited physical distance as an impediment to renewing the relationships. Slightly more mothers also reported dissatisfaction with the infrequency or delay of their child's initiation of re-contact after the first reunion. The problems of achieving a satisfying level of proximity and intimacy for birthmothers and adoptees who had ended decades of enforced separation are unique and need much more careful attention from mental health professionals. Further study of this process should inform both our understanding of life span changes in adults attachments, and the practical advice that counsellors may give to birthmothers approaching a reunion. It is well known that the development tasks and needs facing young adult adoptees and their families usually differ greatly from those facing birthmothers in midlife. Greater sensitivity to these different developmental needs is partly facilitated by popular books on the process of reunion but there appears to be a need for more widespread dissemination of information about these issues to professionals involved in counselling birthmothers, adoptees and their families. It is noteworthy, for example, that those mothers who received some counselling around the time of the reunion did not report any more satisfaction and had the same level of negative feelings about the event as those who did not receive counselling. This raises a query about the value of some counselling currently available to birthmothers and suggests a need for more emphasis on the role of post-reunion counselling in New Zealand...

— Conclusions

The mothers in this survey had relinquished children two to four decades ago and their recollections of their experiences around the time of relinquishment were dominated by feelings of lack of control and lack of social support at a time of great personal distress. It seems that the process of obtaining information about their child through search and possible reunion led to feelings of enhanced psychological well-being for many of the women in this survey. Two key components of this positive adjustment were acquiring of some knowledge about the well being of their children, and being able to talk freely and express feelings about past adoption experiences. There were no dif-

ferences in general psychological well-being between the groups of women who had, or had not experienced renewed personal contact with children. The task of reforming a relationship with their long-ago relinquished child was not an easy one for many mothers. On the other hand, it was extremely rare for any mother in this survey to mention actually regretting re-contact, and a majority expressed strong satisfaction with the renewal of the relationship.”

Source Jeff Field* ‘Psychological Adjustment of Relinquishing mothers before and after Reunion with their Children’ Australian and New Zealand Journal of Psychiatry 1992 No26 pp232-241 *Senior Lecturer in Psychology University of Auckland.

1994 New South Wales Adoption Act Review

No doubt the success of adoption has been a great satisfaction to the adoptive parents, and has been a testimony to their parenting abilities and their commitment to the children. However, the research also indicates that adoptive children face difficulties arising from their adoption, and that relinquishment entails great distress for many birth parents.

Capacity for adoption to change

“While most people do not want to see adoption abolished, many expressed the view that appropriate modifications could be made to meet changes in social patterns and values. Many submissions referred to the current practices of ‘open adoption’ and felt that it should be incorporated, to a greater or lesser degree, in the Act. ‘Any system established should, we believe, have information access and openness from the beginning. Anyone embarking upon adoption would know that there is to be no secrecy.’ Presbyterian Women’s submission. The thrust of many of these comments was that, in the past, problems had been caused by the ‘conspiracy of silence’, and that adoption does not have to involve deception if all parties acknowledge the reality of the adoption. Nor does adoption necessarily involve the complete severing of a child’s existing family relationships; it is flexible enough to accommodate continued involvement of the birth parents and adoptive parents in the child’s life.

Criticism of adoption

Some submissions...contained criticisms of adoption as it is now practised and called for radical changes in adoption law. One view is that adoption should simply be abolished. Those who supported the abolitionist argument stated that the concept of adoption is so fundamentally flawed that no statutory amendment to the Act could overcome this essential fault...Reasons—

— Adoption differs from all other legal orders for care in that it purports to change the personal identity of the child by altering historical, genealogical and biological facts about the child. It thus creates a legal fiction about the child’s parentage. This legal fiction is gradually being eroded by developments in social work policy, particularly those regarding openness in adoption...

— In order to support the legal fiction that the adoptive parents are the child’s only parents, children have been

denied access to information about family origins and the circumstances of their birth. The social work objective, to encourage openness and honesty in adoption, runs contrary to the aim of the adoption legislation which is to deny birth parents any relationship with their child.

— Adoption treats children as the property of their parents. The legal rights of birth parents and adoptive parents prevail over biological reality and the process has more in common with laws relating to the transfer of property than family law;

— The process of adoption treats children as a homogeneous group rather than as separate beings with individual rights.

— Critics of adoption also argue that the traditional concept of adoption has already been greatly compromised by developments such as ‘open adoption’, increased access to information and the declining numbers of adoptions. They conclude that abolishing adoption would represent a culmination of these trends rather than a radical change in direction.

— Medium or long term carers of children can be given the powers and responsibilities necessary to carry out their task without any need to pretend that they are the biological parents of the child and that the child’s birth family have ceased to exist...

— Guardianship and custody arrangements were also seen as preferable options to adoption because they could allow the provision of access rights of the non-custodial parent and did not create a second birth certificate.

— Adoption was described as a social experiment which has failed...The concept of adoption is outdated because it was created in the past to punish, protect or conceal those women who bore illegitimate children. Now that it is possible for single women to support their children and less stigma is associated with single parent families, it is arguable that adoption is no longer necessary.

— Adoption is based on the view that the nuclear family is a vastly superior unit in which to raise children. This view is rigid and simplistic as it fails to recognise the number of children being successfully raised in many different types of family structures and it also fails to recognise the importance of members of the child’s extended family. The law should acknowledge the importance of extended family members, and the fact that many Australian children experience a variety of other family forms. This would include recognition of modern families in a multicultural society.

The validity of adoption

The Commission is not persuaded at this stage...that it would be desirable to abolish adoption. Two reasons—

— *First*, although adoption can be seen as having some or even all the negative connotation described by its critics, it also has some positive features. These include the idea that adoption involves a complete commitment to the welfare of the child, and a complete acceptance into one’s family...It might be argued that the abolition of adoption could discourage people from providing unqualified

love and care for children. If adoption is reformed, the connotations which are seen as negative, such as ownership of the child, deception, and an excessive preoccupation with the traditional nuclear family structure would be greatly weakened, and the positive connotations retained and strengthened.

— *Second*, there seem no prospects at this stage that a recommendation to abolish adoption would have any chance of success...Adoption is well established in many countries, and its abolition does not appear to have been seriously considered by any legislature. The Convention of the Rights of the Child contemplates the continued existence of adoption, although it may be fair to say that the main concern of the Convention is to guard against abuses of adoption rather than promote it.” pp33-38.

Source 1994 Review of the Adoption of Children Act 1965 New South Wales. Law Reform Commission Sydney ISSN 0818-7924 This is a detailed 345 page Report.

1992 Australia - New South Wales

Review of Adoption Information Act Report: Survey and Qualitative Research

Prepared for: New South Wales Law Reform Commission by: MSJ Keys Young 35 Richards Avenue Surry Hills NSW 2010, May 1992.

Contents

- 1.0 Introduction
- 2.0 Methodology
- 2.1 Quantitative Survey: Public awareness of Legislation
- 2.2 Qualitative Research: Impact of the Legislation
- 3.0 Discussion of Survey Findings: Levels of Public Awareness
- 3.1 Understanding of the Adoption Information Act
- 3.2 Access to Information
- 3.3 Personal involvement in Adoption
- 3.4 Role in Adoption and understanding of the Act and Information received.
- 3.5 Summary of Survey Results
- 4.0 Results of the Qualitative Research: Impact of Act
- 4.1 Types of Information about adoption
- 4.2 Awareness of the Adoption
 - 4.2.1 Always Known
 - 4.2.2 Informed Under Duress
 - 4.2.3 Learned by accident:
 - 4.2.4 Still a secret
- 4.3 Information about the adoption and knowledge of parties to the adoption
- 4.3.1 Varying Needs for Identifying and Non-identifying Information
- 4.3.2 Factors Influencing Need for Information
- 4.4 Experience of Administrative aspects of the Information Act
- 4.5 Contact Vetoes
- 4.6 Summary of Qualitative Research: The impact of the Act.
 - 4.5.1 Adoptees and Placement of a Contact Veto
 - 4.5.2 Adoptees Subject to a Contact Veto
 - 4.5.3 Birth Parents Subject to a Contact Veto
 - 4.5.4 Honouring of Contact Vetoes
 - 4.5.5 Reunions
- 4.6 Summary of Qualitative Research” The impact of the Act.

1.0 Introduction

The New South Wales Law Reform Commission has been reviewing the Adoption Information Act 1990. Their task was to gather information regarding the implementation and administration of the Act, which it did by direct consultation with people and groups affected, receiving written and verbal submissions and holding public hearings across the State. In carrying out this review the Commission was, in particular, to consider:

- (i) the implementation, public awareness and administration of the legislation and
- (ii) the impact of the legislation on birth parents, children surrendered for adoption, adopting parents and the extended families of all parties.

The research firm MSJ Keys Young was commissioned to assist in this review, in particular, by carrying out a modest piece of research to assess one) the level of public awareness of the Act and two) the human impact of the Act on the people involved in adoption.

This report describes the methodologies used in this research, the results of a survey assessing the level of public awareness of the Act and the results of the qualitative research into the human impact of the Act.

2.0 Methodology

The two streams of research were sufficiently different in nature to require markedly different approaches. These are described below.

2.1 Quantitative Survey: Public awareness of Legislation

The first term of reference of this review required the Commission to consider, amongst other things, the public awareness of the legislation. To be able to assess “public awareness” with any confidence it was essential to survey a sample of people who were representative of the adult population of New South Wales. It was decided to utilise an ‘omnibus’ survey for this purpose - an omnibus being a compilation of questions, from varying clients, which are asked in the same survey. By sharing costs in this manner, a relatively simple but large scale survey can be carried out at a lower cost. In this instance the Roy Morgan Research Centre carried out the fieldwork.

The sample consisted of 1,102 adults (18 years or older), including 664 Sydney residents and 438 non-Sydney residents from across New South Wales. The survey was carried out over two consecutive weekends in late April of this year and involved face-to-face interviews.

Three questions were asked of people (as well as basic descriptive demographic questions). The first question attempted to assess whether people had an accurate understanding of the essential rights to information created by the Act. The second question asked about people’s exposure, in the past year, to anything about adoption information rights. The third question asked people about any personal involvement they might have in relation to adoption, to assess the extent to which the law is known by those affected by it. (The actual questions asked are set out in Section 3, in conjunction with the discussion of survey results.)

2.2 Qualitative Research: Impact of Legislation

The second stream of the research was directed at exploring the human impact of the legislation on the people most central to adoption - birth parents, children who were adopted, the adopting parents and other family relations of these parties. A considerable amount of thought and consideration was undertaken by the Law Reform Commission to determine the best means of carrying out this aspect of the research. This process included the circulation of a preliminary paper to key actors in the adoption field and to selected researchers, relating the information needed and possible strategies for gathering relevant information. The range of research strategies was refined and then reviewed by the Law Reform Commission before any decision was made as to the preferred approach. The principal issue under consideration was the need to assure that the privacy of people was protected and that no one felt any compulsion to take part in the research. At the same time, it was intended (or hoped) that the research would complement the consultation activities of the Commission ie- public hearings, written and telephone/face-to-face submissions etc). These consultation activities, of course, constitute research in their own right. However the consultation was dependent on members of the public coming forth to express their views and there is no way of determining how representative these people were of the wider group of people affected by the legislation. The result is a tension between the need to protect people's privacy and a need to ensure that as wide a range of views and experiences are investigated as is possible. From a research point of view a random sample of people who, say, have applied for a birth certificate or who have lodged a veto would best serve the need for a representative sample. To use such records or data files for research could, however, be seen as constituting an invasion of privacy. Moreover the reluctance of some or many of those contacted in this way to participate in any research would undoubtedly still result in a sample that was skewed or distorted in some manner. As a result a decision was made to reach as broad a range of people as possible but to rely on their voluntary cooperation and to accept the limitation this placed on the research.

A combination of group discussions and in-depth individual interviews was used. Participants were contacted in a number of ways. First, people who made contact with the Family Information Service (FIS) of the NSW Department of Community Service at the time the study began were asked if they would be willing to take part in research being conducted in association with the review of the Adoption Information Act. As FIS is responsible for handling all general inquiries relating to adoption information, as well as monitoring both the Reunion Information Register and the Contact Veto Register they were felt to come in contact with the broadest range of people affected by the Act. A representative of FIS indicated they generally averaged about 250 inquiries of various kinds each week; over a period of about a fortnight approximately 70 people indicated a willingness to participate in the research. To continue to protect people's privacy those who had agreed to participate and who

resided in metropolitan Sydney were sent a letter from the Department of Community Services (see Appendix 1) asking them to make contact with the researchers. Approximately 30 people did make contact and were invited to take part in one of a series of three group discussions. These group discussions were approximately two hours in length and were held in both Sydney and Parramatta. It is highly likely that this group of respondents differs in some way (or ways) from the broader group of people contacting FIS, but it is not possible to know with confidence how they might differ in their attitudes and experiences.

This group of respondents included birth parents, adopted people and adopting parents, and reflected various stages in the information search (or non-search). However there was no one in this group who had applied a contact veto.

As those on the Contact Veto Register represent a very important group of people in relation to adoption information it was decided to take further steps to reach these people. Thus a second approach was taken which was publicity advertising for anyone who had placed, or been the subject of, a contact veto to telephone the researchers. The advertisement was placed in the Sun Herald and read as follows:

Adoption & Contact Veto

An independent social research group, MSJ Keys Young, is working on a review of the Adoption Information Act, and wishes to contact anyone who has ever placed a contact veto or been the subject of a veto. The researchers assure complete privacy to all willing to express their views about contact vetoes and the adoption information procedure generally. Please call Susan Young ASAP 361 4301

This was supplemented, to a modest degree, by referrals from the Post Adoption Resource Centre (PARC) a major information, support and counselling organisation. Clients who had an experience with a veto were told of the research and given an opportunity to contact the researchers if they chose. Those contacted through the advertisement or through PARC numbered approximately 30 people and they were interviewed primarily by telephone. In a few situations people chose to remain anonymous and these were people who were involved, directly or indirectly, in the placement of a veto. In one case contact was made by a parent whose adult child has not yet been told he was adopted. Two or three people who were associated with or represented organised groups (eg Jigsaw, Adoption Privacy Protection Group) contacted the researchers. Thus the research did include the contributions of the widest possible range of people - from those for whom the relevant adoption was still a secret to those whose personal concerns had been the basis of a public or political position.

3.0 Discussion of Survey Findings: Levels of Public Awareness

This section discusses the results of the quantitative survey regarding the public level of awareness of the Act.

The value of the precise sampling is that the survey results should be representative of the adult population of New South Wales. Therefore, a finding here of, say 15% of the

respondents in the sample could be extrapolated to reflect 15% of the adult population of the State.

3.1 Understanding of the Adoption Information Act

The first question asked of people was the following:

Thinking about adoption. There are at least 3 parties directly involved in an adoption. The **child** who is adopted, the **natural parents**, and the **adopting parents**, that is, those who adopted the child.

To the best of your knowledge, would you say the following statement is true or false.

In New South Wales adopted people aged 18 or older, and people who have given their child up for adoption now have the right to receive identifying information about each other. By "identifying information" we mean having access to the *original* birth certificate issued when the child was born and/or the **amended** birth certificate issued at the time the child was adopted.

This statement is an accurate precis of the Act. General results:

Overall 73% of respondents answered that the statement was true, 12.5% that it was false and 14.5% said they did not know. Thus the great majority of the public appears to have an accurate understanding of the essential nature of the Act.

Place of residence: Rather surprisingly, more non-Sydney residents (78%) said the statement was true than Sydney residents (70%). Conversely more Sydney residents said the statement was false (13%) than did non-Sydney residents (11%).

Gender: More women (75%) than men (71%) said the statement was true and somewhat fewer women (14%) than men (15%) said they didn't know. (The qualitative aspects of the research showed a very strong gender bias in that only a handful of males made contact with the researchers suggesting that the issue is more salient for woman, hence they are more accurately informed.)

Age: Across all respondents, the age group that was most likely to say the statement was true was the 35 to 49 year old (80%) in contrast to the group least likely to say the statement was true, which was the younger 18 to 24 year old group (68%). The oldest respondents, those aged 50 and over, were most likely to say they didn't know if the statement was true (20%) in contrast, to say, the 35 to 49 year olds (9%). In general the older a person was - up to the age of 50 - the more likely he or she was to say the statement was true and less likely to say he or she didn't know. The converse was true of the over 50's. This pattern generally held true for both men and women. However the group most likely to say they didn't know if the statement was true were young men - the 18 to 24 year olds (25%) who were more than twice as likely than young women of the same age (12%) to give this answer.

Educational and occupational level: The educational level of the respondents does not appear to bear any strong relationship on their answers to these question although tertiary educated people are somewhat more likely to say the statement was true (75% compared to 73% overall)

and less likely to say they didn't know (12.5% compared to 14.5%).

A similar relationship exists between occupational level and people's responses - that is professionals/managers are most likely to say the statement is true (76%) and least likely to say they don't know (9%) in contrast to semi and unskilled workers where 70% said the statement was true and 17% said they didn't know.

3.2 Access to Information

The second question asked of people was:

In the last 12 months, have you read, seen or heard anything about the rights to identifying information by people directly involved in adoption? General results:

Overall, two-thirds of respondents (65.5%) said they had read, seen or heard something about information rights, while 31% said they had not. Only 3% said they couldn't say. There is an implied discrepancy in the results of this question and the results of the previous one in that the statement put to people in the first question has only been true in the past year since the passage of the Adoption Information Act. It follows, logically, that anyone who found the statement in the first question to be true, and was doing so on an informed basis, would have heard or read some information on the matter in the past 12 months. In fact some 7% fewer people said they had heard or seen information about adoption rights than said the statement was true. However the results to the two questions are, in general terms, consistent.

Place of residence: Sydney residents were somewhat more likely to say they had had information in the past year (66%) than the non-Sydney residents (64%) and the latter group were more likely (34%) than the Sydney residents (30%) to state they had not had any information. As the Sydney residents were marginally more likely to say they had received information it might be expected that they would be more likely to agree that the statement was true - but this was not the case. Most importantly, though, it does not appear that the non-Sydney residents suffer any marked disadvantage in terms of access to information. (It should be noted that at the time the survey took place, only one country based public hearing of the Law Reform Commission had taken place, whereas the public hearing in Sydney had already taken place. In short, the modest advantage that Sydney residents had to information may well have been reduced after the series of public hearings in the country.)

Gender: Women were a good deal more likely to say they had seen or heard information about adoption information (70%) than were the men (61%). This is not surprising if the subject matter is more salient or interesting to women.

Age: Generally, the youngest age group (18 to 24 years) is the one least likely to say had received any information (51%) compared to (65.5%) overall. Younger singles (under 35) without children were the least likely of any of the life-cycle groups to have recalled receiving any information (55%). Again, this probably reflects on the relative lack of salience of adoption-related issues to younger, childless people.

Educational and occupational level: Generally, the higher the educational level of the respondent the more likely he or she was to say they had read, seen or heard information about adopting rights. Thus 52% of those with a primary level education and up to 74% tertiary educated respondents said they had been informed. This, most likely, reflects different propensities to be informed about public issues in general. No clear relationship existed between the response to this question and occupational level.

3.3 Personal involvement in Adoption

A third question was asked of people which was:
To the best of your knowledge, do any of the following statements apply to you? Any others?

(Respondents were shown a card and asked to just read out the number after any appropriate answer; multiple responses were permitted. The card was used to protect people’s privacy as no one but the interviewer would know what answer was given.)

- I am a person who has been adopted..1
- I am a parent who has given up a child for adoption..2
- I am a parent who has adopted a child..3
- I am a person who has a brother/sister who was given up for adoption..4
- I am a person who has a brother/sister who was adopted into my family..5
- I am a spouse/partner of an adopted person..6
- I am another relative of a person who was given up for adoption (for example, a grandparent, aunt or uncle etc)..7
- I am another relative of a person who was adopted into my family (for example, a grandparent, aunt or uncle etc)..8

This question was included to determine the levels of awareness of the legislation among those people directly affected by adoption.

However, the results also allow a check on how representative the sample is, based on estimates of the numbers of adopted people in the general population. Official records indicate that approximately 80,000 people have been adopted in New South Wales who would be 18 years or older at this time. Assuming two birth parents (160,000) and two adopting parents (160,000) this adds up to 400,000 people who are most immediately involved in adoption. The existence of other relatives (siblings, grandparents, spouses etc) with a potential interest in adoption could take the numbers up to, say, one million. The results of this survey question, presented in terms of the numbers of adults in New South Wales that they represent are as follows:

- adopted person 67,000
- birth parent of adoptee 49,000
- adopting parent 125,000

As can be seen, it appears the incidence of adoptees in the survey fairly closely approximates the incidence in the general population based on official records. It can be expected that the number of adoptees taking part in the survey would, if anything, be less than the predicted number of adoptees as there would be some attrition due to death etc, as adoption records go back to 1923. As well it is possible that a portion of adoptees still do not know of

their status. The number of adopting parents in the survey is consistent with the number of adoptees - that is, there are approximately twice the number of adopting parents as adoptees. The interesting figure is that of the birth parents participating in the survey, as it is well below the notional estimates in the population. Not only is the ratio of birth parents to adoptees less than 2 to 1, the absolute number of birth parents is less than the number of adoptees.

There are a number of possibilities that might explain this. Almost certainly this reflects the ‘absent father’ in many early adoption situations and, in fact, over three times as many female respondents as male respondents indicate they were a parent of a child who was adopted out. There would have been some attrition through death etc among this group and any multiple adoption out of siblings would mean there would be more adoptees than relinquishing parents. It is also quite likely however, that there was an under enumeration of birth parents because some respondents chose not to disclose this information. A few respondents refused to answer this question - whereas there were no refusals in regard to the other two questions. (Those refusing to answer were disproportionately women.)

Further results to this question, presented in terms of the numbers of adults that they represent, are as follows:

- sibling of a person adopted out 46,000
- sibling of a person adopted into family 100,000
- partner/spouse of an adopted person 60,000
- another relative of a person adopted out 121,000
- another relative of a person adopted into the family 336,000

On the basis of the survey results, some 815,000 adults in New South Wales would have a fairly immediate interest in adoption. Again, this is likely to be an understatement due to a lack of knowledge, in some cases, of the adoptive status of a family member.

An interesting finding is that relinquishing parents were more likely to reside in areas outside Sydney (1.6%) than in Sydney (0.8%). As a consequence other relatives of a person adopted out are also more prevalent in non-Sydney areas. This might reflect greater social pressures that existed, historically, in country areas around such issues as ex-nuptial pregnancies etc. In any case it does underline the importance of information and services being available in non-capital city areas. It may also explain the finding that non-Sydney residents were somewhat more likely to be accurately informed about the Act than Sydney residents.

3.4 Role in Adoption and understanding of the Act and Information received.

The proportion of respondents saying that the statement about adoptions information was true varied in relation to the role they had in regard to adoption. The results in Table 1 (over page) reveal some interesting findings.

Curiously, those involved in an adoption situation were more likely to answer “false” (15.5%) than those not in an adoption situation (12%). A greater proportion of those not in an adoption situation “did not know” (15%) compared to those in an adoption situation (11 %).

Table 1 Right to identifying information by role in regard to adoption

Response to statement	Adopted person %	Partner of adopted person %	Gave child for adoption %	Adopted a child %	Sibling given for adoption %	Other rel. given adoption %	Sibling adopted into fam. %	Other rel. adopted into fam. %	Total in adoption situation %	Not in adoption situation %	Total %
True	63.9	70.5	76.3	75.0	90.2	79.4	69.3	73.3	73.5	73.1	73.1
False	9.3	12.2	15.5	15.7	9.8	15.0	18.3	15.3	15.5	11.9	12.5
Don't know	26.8	17.3	8.2	9.3	-	5.6	12.4	11.4	11.0	15.1	14.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 2 Whether read, seen or heard information by role in regard to adoption

Seen information	Adopted person %	Partner of adopted person %	Gave child for adoption %	Adopted a child %	Sibling given for adoption %	Other rel. given adoption %	Sibling adopted into fam. %	Other rel. adopted into fam. %	Total in adoption situation %	Not in adoption situation %	Total %
Yes	70.4	79.6	69.0	76.7	80.5	72.9	74.8	80.7	75.9	63.3	65.5
No	29.6	20.4	31.0	23.3	19.5	27.1	21.4	19.3	23.7	32.9	31.1
Can't say	-	-	-	-	-	-	3.8	-	0.5	3.7	3.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

As can be seen the least well informed group was adoptees, with 64% finding the statement to be correct, and over one-quarter saying they didn't know. Conversely, siblings of an adoptee were best informed, with over 90% finding the statement to be correct and none reporting he or she didn't know. It is unfortunate, and rather inexplicable, that a key group in the adoption triangle - the adoptees - should prove to be relatively unaware of the nature of rights to adoption information.

The finding that siblings of adoptees were well informed is consistent with the qualitative research, in which a number of siblings expressed strong feelings about their lack of rights to identifying information on an adopted brother or sister.

Much less variability between subgroups was found in relation to the question on whether respondents had read, seen or heard anything about adoption information in the last 12 months (see Table 2). As might be expected, a greater proportion of those respondents involved in an adoption situation had remembered being exposed to information regarding adoption legislation. Some 70% of adoptees said they had been exposed to information, which is slightly higher than the proportion saying the statement about adoption rights was correct. What this highlights is the fact that exposure to information does not necessarily equate with being correctly informed.

This issue was examined by looking at people's judgements on the correctness of the statement in relation to their access to information. The results are shown in Table 3 below.

These results indicate that there is a general likelihood that people who recall hearing or seeing some information are more likely to say the statement was true. The most telling

Table 3 Right to identifying information by whether read, seen or heard information

Response to statement	Read, Seen or Heard Information			Total %
	Yes %	No %	Can't say %	
True	79.6	64.1	27.7	73.1
False	11.1	16.7	-	12.5
Don't know	9.2	19.3	72.3	14.5
Total	100.0	100.0	100.0	100.0

finding is that over 72% of those who weren't able to say if they had seen or heard any relevant information answered that they didn't know if the statement was correct or not.

3.5 Summary of Survey Results

The majority of the public appears to be aware of the essence of the Adoption Information Act - that adopted people and the birth parents who surrendered them for adoption now have the right to identifying information about each other. Also, a smaller majority recall having read, seen or heard something about adoption information rights in the past year. There was variability within the public as to how well informed people were along demographic lines, place of residence etc.

Among the subgroups of people with a personal interest in adoption, the siblings of adoptees were the most likely to correctly understand the current provisions regarding adoption information; adoptees as a group were the least well informed. The survey results suggest that something in the order of 815,000 adults in New South Wales have a personal interest in adoption in some manner.

4.0 Results of the Qualitative Research: Impact of Act

This section reports on the findings of the group discussions and the in-depth individual interviews. The section on methodology makes clear that the qualitative phase of the research cannot, and was not intended to, be construed as representative of people involved in adoption. Qualitative research is directed at *understanding* a phenomenon, not at measuring the *incidence* of the phenomenon in the way qualitative research does. Therefore the results discussed below describe the experiences, views, attitudes of individuals; someone describing his or her reaction to a contact veto, say, is describing a unique experience. Thus this discussion reflects a range of genuine responses as reported by various individuals - it does not tell the whole story of adoption and the impact of the Act.

4.1 Types of Information about adoption

Adoption information sought by people proved to be of three kinds:

- awareness of the adoption per se, that is, that an adoption had taken place;
- information *about* the adoption (generally, non-identifying information);
- *knowledge* of parties to the adoption (generally contact in some form).

The Adoption Information Act has apparently been instrumental in changing people's access to information at all three of these levels, with quite different consequences for various individuals. These are discussed here.

4.2 Awareness of the Adoption

The fact that a person has been adopted is not always known to the person and, certainly, not always known to close family members - either of the relinquishing or adopting families. The secrecy or 'shame' that often surrounded adoption in the past still continues among some families and with some individuals. Some of the issues facing family members other than the adoptee are raised elsewhere in this report - here the focus will be on the adoptees themselves. The research showed that adoptees generally experienced one of the following situations.

4.2.1 Always Known

A number of those interviewed indicated they had 'always known' they were adopted or that they had been told at a very young age. Those who said they had always known may have experienced some difficulty with the fact of being adopted, but none experienced any upset around being told of being adopted. Those who recall learning about their own adoption at a given point in time tended to experience some trauma. As one young man reported "I was told at a fairly young age and remember feeling the shock - I felt betrayed, rejected, cast out".

He went on to say, of his adoptive parents

"It was all pretty new to them - they didn't talk about it much. Eventually we came to talk about it more as a family. It was better for my younger brother and sister who were also adopted." On the other hand, an adoptive mother reported that her daughter, being told of her adoption at the age of ten or so, simply said "I have no other mother".

All of the adoptees who participated in the research said that knowing that they were adopted required, at the very least, some adjustment or working through on their part. Many felt that being adopted meant that they were different in some regards and relate picking up numerous hints and clues to their status. One adoptee, for example, recalls being shown a portrait of a family ancestor of some fame and thinking "*But he wasn't from my family*". Others who were ignorant of their adoption recall feeling different but in a more pejorative manner - one remembers family members mysteriously saying "*She wouldn't understand, she's not really family*". Another relates her own "lack of identity"; stating that "*society looks down on adopted kids as second rate*". A woman recalls the neighbourhood children being forbidden to play with her after their families learned she was adopted.

4.2.2 Informed Under Duress

A few people, both adoptees and adopting parents, indicated that the adopted person was informed because the existence of the Act made it necessary. For the adoptees this was generally traumatic and the adopting parents experienced this as a marked violation of their rights and of their control over private family matters and decisions. Others however had a different response. One adoptee recounted

"I was almost 40 when my adopting mother told me - because of the change in the legislation. It was a relief to know they weren't blood relatives - it was such a dysfunctional family. For a start I think they were ashamed of not having their own child and my father, in particular, was not happy about the adoption - regarding me as tainted goods. My mother said she hadn't wanted other people to know about the adoption because they might mistreat me".

In some families, the immediate family had knowledge of a person's adoptive status but it remained a secret to the extended family and to people outside the family.

Any distress experienced by people who learned of an adoption under these circumstances reflected the shock of having their reality overturned - often fairly late in life. There was a sense of betrayal expressed by a number of people - that their families had lived a lie in relation to them. As one woman said

"What staggers me is that there were many opportunities when they could have told me. For example when I was trying to have a family and was experiencing trouble getting pregnant. The notion of adoption came up in discussion with my mother - why didn't she say something then?".

Similarly some adoptive parents also expressed a sense of betrayal - by the state that changed the rules and forced them into a disclosure that they had never intended would occur.

4.2.3 Learned by Accident

Numerous adoptees related that they had learned of their own adoption in, as one woman said "A way I shouldn't have". In her case she learned, at the age of 17, when her adoptive mother died and she was informed of her adoptive status by the family solicitor. She asked her adoptive father who confirmed she was adopted, but gave her no other details. Another learned of her own adoption when the family solicitor went bankrupt and the records he kept were returned to the client families.

Another woman was 58 when

"I found out because my daughter-in-law became interested in tracing the family tree after reading a book on how to do family research. This led to my discovery. It was devastating to me - 12 months passed before I could tell my children".

For adoptees to learn about their own adoption through some mishap appeared to be the most traumatic way of learning in that the relationship to the adopting parents continued - until disclosure - to be based on a fiction.

The shock of learning was worsened in one case by the adoptive mother's attitude when confronted by this knowledge "*She became very agitated and nasty and said 7 took you when your own mother didn't want you*". This same mother had told the adoptee's "sister" some 15 years earlier about the adoption to explain why the two were treated differently in regard to the distribution of family possessions following the death of the respondent's adoptive father.

4.2.4 Still a Secret

Research into effects of the Adoption Information Act would find it very difficult to reach people for whom an adoption still remained a family secret. By definition, the adoptee would not know and family members who were holding such information would be most apprehensive about discussing the matter and would not be in contact with any of the adoption services. However the advertisement that was placed during the course of this research did result in one such adoptive parent making contact with the researchers. This took the form of a brief anonymous letter from a mother describing the circumstance of her adoptive son - now 45 years old. She concluded

"If he had these ties broken with us he would be destroyed. No one would be hurt except him! And no one would gain from exposure!".

Almost certainly there are numerous families in which an adoption still remains a secret, and this letter provides some insight into the emotional cost of maintaining this secret now that the Act has threatened people's ability to secure this information. As adoptive parents have no ability to place a contact veto they live with the anxious awareness that a birth relative could, at any time, make contact with their child. Moreover this parent, at least, saw the consequence as being cataclysmic - as destroying the child and the bonds between the parents and their child.

In summary, it appears clear that when adoptees are able to remember a point in time when they learned about their adoptive status (as opposed to "always knowing") the experience resulted in a good deal more trauma. This is compounded when the truth was learned by accident, and not directly from the adoptive parents. Similarly, when the Adoption Information Act served to force the hand of some adopting parents who had not disclosed their child's adoptive status the result was often more trauma yet for the child and parents alike. Those who have still not disclosed to their children their adoptive status are caught in an extremely anxious situation in which they have little control over a very fundamental aspect of their family life.

4.3 Information about the adoption and knowledge of parties to the adoption

4.3.1 Varying Needs for Identifying and Non-identifying Information

In this report, a distinction is made between information about an adoption (information that could be described as factual and non-identifying) and knowledge of parties to the adoption that is seen as offering the possibility of contact between a member of a birth family and an adoptee. Some people participating in the research were quite clear as to which sort of information they sought whereas others were not. Moreover, people's need for information and possible contact was highly changeable over time - often reflecting events in their lives or their personal development. Certainly the need for at least non-identifying information is greatest amongst adoptees, as information on their birth families constitutes a basic element in their own self-identity. Many of the respondents expressed an acute "need to know" as much as possible about their birth parents and the events surrounding their adoption. As one young man said "*I have lots of questions. What do they look like? Do I have cousins? What did my parents enjoy doing? What kind of work did they do? Who was the family drunk?*". He knew enough to be sure his mother was unmarried but asked "*Perhaps my father was married at the time? Maybe he was a sailor*". Other relate how their differences from their adoptive families stirred their curiosity - of having olive skin in a pale-skinned family; of being creative and artistic in a down to earth, practical family etc. Some participants in the research indicated they had sought non-identifying information before the current Act had come into being and how, in the words of one adoptee, "*It helped my self-understanding*".

Birth parents also expressed a need for factual information, but certainly the need was not as acute. For them, the information needs tended to be about how their children had fared, what they had become in life, what they looked like as adults etc. However important this was, though, the information was not critical to their own self-identity. This differential need for information is reflected in the statistics on the applications received by the Registry of Births, Deaths and Marriages for original and amended birth certificates. As of February 1992 some 70% of applications were received from adoptees and 30% were received from birth parents.

In our research it appeared that for many birth parents, the search for information about their children was less motivated by a need for information per se, than the hope that the information gained might lead to a reunion. Birth fathers face some particular problems in seeking information. The only birth father to take part in the research indicated he had certainly participated in the decision to have his son adopted out but that he and the birth mother drifted apart after that. (He attributed the failure of the relationship to the fact that the birth mother herself was an adoptee and could never "*solidify*" a relationship.) He "*has always remembered my son's birthday*" but it was only a year ago that he was prompted to search for him. It was the experience of a friend who

himself had just learned at age 43 that he was adopted that moved the father to begin a search. However *“I was stunned to learn my name wasn’t even on the birth certificate. It was as though I was the dirty male, saying you don’t matter”*. He had to re-establish contact with the birth mother to get her permission to have his name put on the birth certificate, which was awkward. A number of relinquishing mothers indicated they were actively dissuaded from including the father’s name on the birth certificate by hospital staff.

Siblings of a child adopted out form the third major group with a strong need for information. If they themselves had been adopted out their needs were similar to other adoptees. However in a number of cases the sibling had not been adopted and often was seeking to make contact with a full or half brother or sister. In these cases non-identifying, factual information was of little interest yet such siblings are not entitled to identifying information under the Adoption Information Act. For example, one woman in her 40’s is now searching for her younger brother. At six months of age her mother left her in the care of grandparents and after giving birth to her brother, had him adopted out. This woman only discovered she had a brother ten years ago when her half sister (eg her mother having remarried) related this “secret”. The woman has approached her mother who has refused to give any more information, saying *“she didn’t remember”*, and is thwarted in her search for her brother as she has no legal access to identifying information. Her only hope is that her mother will relent and seek to apply for her brother’s amended birth certificate.

Similarly, a brother and sister are seeking information on their younger sister who was adopted out at birth when their mother died. As their father is now also deceased there is no one who has the authority to access the information needed to track their sister. They both express anger and frustration at being unable to do anything more. In most cases such siblings have put their names on the contact register while recognising that their sibling may not even be aware he or she is adopted. A glaring anomaly faces these siblings in that a brother or sister who is adopted out can seek information on them, and contact with them but they are prohibited from doing the same. Many of these siblings are desperate to have the same rights to identifying information that adoptees and birth parents have.

4.3.2 Factors Influencing Need for Information

Participants in the research ranged from adoptees who have not even sought their original birth certificate to adoptees and birth mothers who have expended small fortunes to track and locate family members. Thus the Adoption Information Act was of great importance to some people and of no interest to others. The factors that seemed to determine people’s level of interest in information included at least the following:

Gender- Most of the people involved in the research were women, although this may *not* reflect the gender of those actually seeking information on adoption in NSW. (Previous research, however, confirms that seekers of

information are disproportionately women.) Moreover, adoptees were more likely to be seeking information on their mother rather than their father.

Life events - Often circumstances in a person’s life alters his or her interest in seeking information and/or opening up the possibility of contact. One mentioned by a number of people is the birth of their own children which often triggers in adoptees the need to know more about their own background. As one adoptee said *“I wanted to see the continuity of mum, me and the kids”*. One woman participating in the research was motivated by the fact that her husband was also adopted which meant that their children had no natural grandparents in their lives. Also holidays and anniversaries often stirred people to take steps to acquire information or make contact.

Medical reasons - The need for medical information was frequently mentioned - either in relation to an adoptee’s own health condition or in reference to his or her natural born children. Generally medical information was sought as factual, non-identifying information but this was not always the case. In at least one case a health condition present in an adoptee made her want to locate and inform her mother in case the mother was similarly afflicted but unaware of the genetically determined illness.

Loss - Death or another form of loss sometimes led people to seek information on a family member lost through adoption. One woman, for example, began to seek a brother who had been adopted out only after a crisis had developed in her own family’s life (her ten year old daughter had been raped and made pregnant by a relative of her husband causing the family to cut off all relations with her husband’s side of the family). The experience of death sometimes produced a sense of urgency around the need for information *“before it was too late”*.

Circumstances of the adoption - Among birth mothers (only one birth father having participated in the research) the factor that seemed to influence them most in their drive for information and possible reunion was the circumstance of their child’s birth and subsequent adoption. Although all birth parents recalled similar circumstances of a lack of personal, social and financial support that made it difficult or impossible for them to keep their children, differing levels of perceived choice or compliance around the adoption seem to affect attitudes much later in life. Those women who appear to have experienced the adoption as a particularly abusive situation seem to be more motivated to seek information and/or contact. Examples included a birth mother who had been promised support by her (country dwelling) parents to help her care for her child. She recounted *“Two days before the birth I received a letter from them saying that if I returned home with the child I would be on my own - I felt that is what they always intended to do and did it to ensure I didn’t make any other provisions”*. Within the week that the Act was passed this woman applied for her daughter’s amended birth certificate and put her name on the Contact Register only to learn her daughter had placed a contact veto. This reawakened the pain of the original loss and her feeling of betrayal by her own parents - it has now been a year since communication

with her mother ceased.

Another grandmother of a child adopted out spoke bitterly of the physician, social worker and nursing sister who brought pressure on her 16 year old daughter, her husband and herself to have the grandchild adopted. She deeply regrets her failure at that time to resist this pressure which came at a time of other upheavals in the family. Further injury was expressed in relation to the adopting situation the infant was taken into *“The adopting mother was an adoptee herself and never wanted to see her mother. She went back to work while the baby was still young, which she wasn’t to do. We even asked that the child go to a family in a leafy suburb - we all love gardens and that didn’t happen either. The deal hasn’t been kept”* (This woman has privately traced her grandchild and says she is *“keeping a watchful eye on the family”*.)

Personality differences - Various people expressed different levels of interest and curiosity regarding their own background. One adopted man stated *“When the Act was passed I felt I was happy with my life and didn’t want to do anything. I don’t know the people on the other side - they could be quite nice people”*: Another young woman, who hasn’t even applied for her original birth certificate said *“I’m a wimp. I guess I’m lazy and a bit fearful of taking on a search. What if I get so far and couldn’t find them? If someone else did the work I feel I would fit into a search but I don’t have the need to do it myself”* : Another woman, who learned at age 17 that she was adopted, didn’t start to search for ten years. She said *“I don’t know why I left it so long - it just didn’t mean anything to me. I also can’t pinpoint what made me look for her but I wanted to ask her why she gave me up”*.

Current relationships - Numerous people indicated that their current relationships with other people were a major influence on their willingness or unwillingness to undertake an information search. One adoptee reveals putting her name on the contact register and not telling her adoptive parents that she was searching for her natural mother until she knew she had found something. *“I was protecting myself and them. I didn’t want them to feel rejected and I was protecting myself from their possible rejection - I wasn’t going to burn my bridges if nothing was going to come of it”*. This woman also acknowledged that being married and in a stable family relationship which would not reject her if she started looking for her mother was also critical to her decision to search.

Even the woman who described herself as a wimp and too lazy to undertake a search indicated she was also concerned about hurting her adoptive parents. The death of her mother partially liberated her from this concern, but she is still careful not to be hurtful to her father. She recalls shouting *“You’re not my real father”* in her (typically) *troublesome teenage years, and a search now would seem to confirm that this is how she feels when in fact “I’ve always felt a part of my family”*.

One birth mother indicated that while her husband of many years has always known about her relinquishing a child *“he made me promise not to look for her. He certainly didn’t want to bring up someone else’s child - he*

didn’t want to know about her. So even though I promised not to search I had no intention of keeping my word but it meant I had no one to talk to about it”.

Another adoptee described the cold, loveless and rejecting family into which she was adopted, asking *“Don’t they ever check on families after an adoption takes place”*. Her emotional distance from her family was instrumental in her search for information. Despite her parents’ continued denial the adoptee suspected from the age of nine that she was adopted. She married twice but neither husband shared her belief about her being adopted. Finally when the Act passed she was able to verify - much to her relief - that she was adopted although her 37 year old sister was devastated to learn that she also was adopted.

4.4 Experience of Administrative aspects of the Information Act

The task of this research was not to assess the manner in which the Act has been administered, however some relevant information naturally arose in the course of the work. This is briefly described here

Role of government agencies - Two key government bodies - the Family Information Service (FIS) and the Registry of Births Deaths and Marriages were often mentioned by people. FIS was generally seen by those seeking information to be helpful and sensitive to their situation. Only a few criticisms were voiced - *“The bureaucracy don’t understand”*; *“Depends on who you talk to - they won’t give their names so you have to go through the whole story each time”*; *“Fantastic - I asked for something and got it immediately”*. Another said she wrote a letter and *“One whole year later and I still haven’t heard back”*. Those who have used the Guide to Searching Adoption produced by FIS generally found it invaluable with the exception of information and guidance on contact vetoes, which was generally felt to be inadequate.

The responses to the Registry were less frequent although those (particularly those subject to a contact veto) who were in contact with the Assistant Registrar Bob Miller found him to be totally supportive and understanding. The Post Adoption Resource Centre (PARC) was generally used by those who required more emotional support around adoption issues, and people generally found them the most professional, and experienced helpers.

Those whose role in relation to the Act has been primarily to place a veto often found the adoption agencies *“biased”* and *“pushing contact”*.

Services in the country/out of State/overseas - Relatively few non-Sydney people took part in the research, but the few who did suggested that it is particularly hard to manage a search process from a distance - mentioning lost or unanswered letters etc. One birth mother from the country said *“I would come back and forth to Sydney all the time and finally came to Sydney and worked so that I could be here to expedite matters”*. In another case, a sibling now living in WA has engaged the help of her sister-in-law in the search she is undertaking for a lost brother as she felt so

ineffective working at a distance.

One adoptee from the UK initially found her attempts to trace her mother in the UK were blocked by the British requirement that she undergo counselling before being given certain information - she felt that FIS assisted her greatly in dealing with the British welfare agency and in overcoming the need to return to England simply to fulfil their requirements.

Fees - As might be anticipated numerous complaints were raised in relation to fees. These ranged from the "package" fee of \$120 payable by every applicant for a birth certificate, in that some queried why a normal Registry search fee is not sufficient. One adoptee had been sufficiently constrained by the size of the fee that she did not undertake a search until she received a small inheritance "I felt free to spend that money on myself, because I knew I wasn't taking it away from the family". The most contentious issue, of course, is the fee charged to those placing a contact veto. As will be discussed more fully later, this compounds the sense of injustice and injury often experienced by those who are hostile to the changes brought by the Act.

Age of 18 - The age of 18, at which people are deemed by the Act to be adults in terms of adoption information is felt by some to be too young. This view was largely held by adoptive parents who felt this created enormous pressure on their children at a vulnerable time and by birth mothers who had experienced a contact veto. The latter sometimes attributed the placement of the veto to the fact that their children were insufficiently mature to understand and/or unduly under the influence of their adopting parents.

4.5 Contact Vetoes

The research involved numerous people who had either placed a contact veto or been the subject of a contact veto. Some of the strongest feelings expressed in the course of the research related to the placement of a contact veto. Contact vetoes will be discussed from the perspective of adoptees, and birth parents in relation to both the placement of a veto and being subject to a veto. The views and experiences of adopting parents are also presented.

4.5.1 Adoptees and Placement of a Contact Veto

Those adoptees who have placed a contact veto (and in some cases, their adoptive parents) express a deep anger about the need to place a veto. As one man said "I had resolved matters in my own head and didn't want to take any action in regard to my own adoption. I never sought any information. The law forced me to think about it all again and then to make a response".

Another adoptive parent whose son has placed a contact veto says "The change in the legislation has completely altered our family life. We have always had a happy family life and our son didn't want to know. He said - "You're my mum and dad - I don't want any contact with anyone else. My younger daughter then got upset and asked if they were going to take her away. It's all my wife and I talk about any more - our life is our children. We're probably more sensitive to this than my son is, but he's indicated that he wants his privacy and to be left alone".

This father acknowledged that he would feel a bit upset if his son undertook a search and, when asked why some adoptees do seek contact with birth parents, he said it probably meant they hadn't been happy in the adopting family.

Another adopting parent of a young woman who had placed a contact veto says her daughter does not wish to have contact of any kind. She stated "*We objected to the release of our address even though she put a veto on. I don't want her or me to go through all of this again.*

We get very nervous if a car is parked outside - the first few months in particular we were quite jumpy and tense". The mother was clear that "*There is no way we would have adopted if this law was there then - we would not have gone into adoption*". The mother did not know what decision her daughter was going to make when she sat down with the social worker and was very relieved to know that her daughter didn't want to leave anything for, or have any contact with, the birth mother. The mother says she did not try to influence her daughter although, she states "*It would be sharing her - giving her away - it wouldn't be the same if she were shared*".

The fear expressed by some adoptive parents that their adopted children could be lost to them if they attempted to search for their birth families was echoed by some of the adoptees who did undertake a search. As one adoptee said "I didn't feel secure enough to offend my adoptive parents by looking". She was afraid her adoptive mother might feel she was ungrateful for all the parents had done for her and can now see that "*My adoptive mother is frightened of losing me. My father is more open about the whole situation and gave me my adoption papers to start the search*". Another young male adoptee also said his mother was threatened by the process of his search but his father was "*OK about things*". His mother was able to tell him that she felt threatened but never deviated from assuring him that "*he would always belong to this family*". As these and earlier comments indicate, the fear of loss following a decision to search can be experienced by both the adopting parents and the adoptee. (One adoptee said that in fact her adopting mother did indeed reject her for a period after she started to look for her birth mother but that things were alright again now.)

A contrasting attitude was expressed by some other adoptive parents. For example one adoptive mother said "*Everyone has a right to know - I'm keen for my two children to find out and then be relaxed about things.*" Her daughter has just received her birth certificate and finding that her certificate did not have her father's name on it upset her. Her son has the attitude that "*We were dumped*", so doesn't want to talk to his birth parents. This parent spoke of the contact veto placed by her 24 year old son saying "*I don't particular agree with his reasons for doing so, but I respect his right to decide for himself*". She herself wouldn't mind if her son met his mother and he did discuss the matter with them before placing the veto. Her adoptive daughter hasn't placed a veto - "*Girls often feel differently*". The mother's concern is that the children not experience any rejection by the birth parents but strongly

believes the process of coming to terms with the birth families is important for her children.

FIS has recently become responsible for managing the first contact register for overseas adoptions - in this case Sri Lankan adoptions. One adoptive mother of a young Sri Lankan girl said *"I've been trying for some years to find a way of establishing contact with her birth family that protects that family. I know that contact is very important for my daughter. When I started to get all of her papers and documentation together to begin the new contact procedure, however, I started to feel a bit scratchy about the process. Here I was, about to give the Department information that it didn't even have to have them 'own' it and control the process thereafter. I began to understand a little better people's feeling about government being intrusive. Nonetheless I'm still grateful that something has been set up"*.

Another adoptive mother (with three natural born children) related the search undertaken for her adopted daughter's birth family. The search went on for many years - starting long before the 1990 Act came into force and which was only successful after the new Act led to identifying information. Her daughter, even as an infant displayed behaviour that was variously diagnosed as schizophrenia or autism. As this highly troubled, runaway child grew up, the adoptive mother persisted in trying to locate the birth mother - in part because she believed the mother's health records would help explain the daughter's behaviour and, in part, because her daughter was desperate to find her birth mother. A severe car accident left the girl badly injured and wanting only her birth mother. Reunion between the girl and her mother (now deceased) and her brothers seems to have had a major beneficial effect on the girl. The adopting mother said *"We didn't have one day's happiness when she was growing up but we never ever regretted adopting her"*.

When this adoptive mother was asked how she accounted for the markedly different attitudes between adoptive families in regard to contact with their children's birth parents she said *"I don't know. But I do believe our children are just on loan"* : Her observation seemed particularly apt in that families' suffering perceptions about what it means to be a family often seem to determine their response to possible contact with birth families.

It is useful to draw on some theoretical concepts from the field of family therapy, here. There is an approach termed *"structural family therapy"* which views the family structure along a continuum (see S Minuchin Families and Family Therapy, Cambridge, Harvard University Press, 1974). At one end are families with very diffuse boundaries - who are very open to people and influences outside the family and have an insufficiently developed sense of autonomy or separateness. At the other end of the scale are families with very rigid boundaries, who are autonomous and isolated from outside sources of support and control and where family members are very enmeshed with each other. It would stand to reason that adopting families that have more open or closed structures would react quite differently to the perceived intrusion of outsiders - most

particularly birth parents.

Thus those families that are the most "closed" clearly find the potential intrusion of the birth family destructive and very anxiety provoking. It is doubly injurious to have *"the law/the state"* be the instrument of this intrusion. The criticism of some birth mothers (who have had contact vetoes placed on them) that adopting parents bring pressure on their children to place vetoes may not be accurate. Generally members of a closed family share similar attitudes towards outsiders.

Having said this, it is clear that many adoptees are influenced by the belief that undertaking a search would distress their adoptive parents. Some adoptees do not undertake a search for this reason, while others proceed and then seek to resolve problems arising with their adoptive parents. As one adoptee said *"I feel I'm lucky to have two sets of parents and do not see any need to choose between the two"*. In some families however, having two sets of parents is unthinkable and this appears to be the most deeply felt issue in regard to the placement of contact vetoes by adoptees.

Unfortunately for some families, adoption has changed over the decades. Whereas once a "closed" family was the norm and was supported in the community's view of adoptions, now adoptions are expected to take place only where an open system can be sustained. Would-be adoptive parents for whom this is unacceptable would be screened, or screen themselves, out of any adoption today. As the adoptive mother said, had this legislation been in place at the time she adopted she would have chosen not to adopt. Thus the issue of "retrospectivity" reflects the tragedy whereby some families who are almost constitutionally unable to work as "open families" are threatened in a very deep and fundamental way with being forced to do so. This is particularly true where the belief is held, whether by some adoptees or adoptive parents, that a search for birth parents implies that the adoption has failed in some way - that children raised in a happy family would not have any need to search.

Other issues, however, were also identified by adoptees and/or adoptive parents around the placement of a contact veto, including:

- the perceived pressure of social workers, etc to have the child *not* place a contact veto, or if he or she did, to pressure for a letter/photo etc to be lodged at the same time;
- the intrusion of the law into such important family decisions - particularly when the rules have been changed;
- the need to pay a fee to lodge a contact veto, thus paying to guarantee a right that should be freely available;
- the belief that a fine is insufficient to restrain someone seeking to override a veto (as the adoptive mother of a young woman who applied a contact veto, said *"If I was a birth mother I'd want to find our' and another adoptive mother said "All breakdowns in confidentiality are due to human contrariness- you can't stop them finding our"*);
- that adoptive parents have no rights - that pressure groups have hijacked the debate leading to the current

legislation;

- that birth mothers had ample protection at the time of adoption, chose to give the child up, therefore lost any moral rights to the child. *“The mother had six months to change her mind”* said one adoptive mother.
- that information about the changes in the legislation was inadequate and the legislation slipped through.

4.5.2 Adoptees Subject to a Contact Veto

Numerous adoptees who were subject to a contact veto took part in the research. Their backgrounds and experiences were very diverse, but certain themes did emerge in relation to their searches and the veto experience.

First, the process of undertaking a search for information, which might or might not lead to contact with birth family members, is a highly charged, emotional experience. A mix of fantasies and dreams, of dread and apprehension are often faced by adoptees. As one woman described the process *“It’s all so emotional and I have to rev up for it. I only pick up the search when I feel I can carry it for a while”*. Others remark on the joy and sense of discovery they experience as each new piece of information about themselves comes to light.

Many adoptees attempt to prepare themselves for the possibility that they may exhaust the search and come to a dead end or that a contact veto might be placed on them. As one young man said *“I received a letter from the Department and held off opening it. I had an idea a veto have been placed. When I finally opened the letter and found my mother had placed a veto I felt ... I felt like my right arm had been ripped off”*. After some consideration he added *“I didn’t feel a sense of rejection”*.

Even after he left a letter that his mother did not pick up he said *“I didn’t feel a sense of rejection. I’m sure she had valid reasons for not wanting to make contact with me - it is a great deal of emotional upheaval for someone to go through in her 60’s”*. He believes the contact veto is a good system because he feels his mother needs this to protect herself.

Another woman in her 40’s who learned she was adopted only in the past year immediately began to try to locate her birth family only to come up against a veto. She experienced this as another rejection which, in combination with a divorce and children leaving home resulted in a breakdown. Having taken the veto very badly, she was grateful for the support offered by people like Bob Miller (of the Registry of Births) and organisations like PARC.

Another woman who learned of her adoption in her late 50’s, also found her attempts to contact her mother ‘blocked’ by a veto. Through her search she learned of the existence of a half-sister and with nothing to stop her, made contact with her. She *“accepted me”*. As her half-sister had known nothing about the adoption, they both presumed the mother (who is now widowed) is protecting herself in relation to her second family by the veto. The second family, in turn, is experiencing difficulty in keeping the new “auntie” a secret from the mother, least she be upset. Oh what tangled webs we weave

Adoptees who are subject to a contact veto face some of

the same problems (that birth parents do when they come up against a veto. However adoptees are doubly disadvantaged, as a veto often means that the information and understanding of their origins are lost to them. This includes factual information about their genetic, medical and social etc background but, often more importantly, the answer to the all important question *“why me?”* That is, how come my mother gave me up? For any child growing up it would be difficult to avoid believing, at least in part, that he or she was an unwanted child if given up for adoption. As adults, though, most of those participating in the research expressed an understanding of the likely social situation facing their birth mothers and were less likely to be condemnatory of them nor to see the adoption as an act of rejection. Nonetheless, they still sought to understand. Some expressed concern that rape or incest may have been a factor.

While being aware that those placing a contact veto were encouraged to leave a message or information for their child a number of adoptees felt that this should be strengthened. Some talked of a *“questionnaire”* that a parent could fill out, many spoke of the need for a medical history at least and some spoke of making it mandatory that information a photo, or a message be left. For some, a new question has emerged *“Why is it impossible for you to see me now?”*.

4.5.3 Birth Parents Subject to a Contact Veto

The issues facing birth parents when confronted by a contact veto tend to be of a different order than those facing adoptees. Birth parents, for example, don’t ‘, have the same need for some kinds of factual information - medical history, for example. Instead, the search (at least by those parents taking part in this research) was much more related to the sense of loss they experienced as a consequence of the adoption. Thus contact with their birth child, for many, is essential in healing that loss.

Most of the birth parents (and one grandmother) experienced the adoption as a time when they had little power or control over the circumstances, when officials and loved ones may have betrayed them or let them down. In retrospect, many now view the adoption as a political or social phenomenon in which they and their child were victims. As one mother said *“Our babies were taken away from us, not given. We never relinquished them. Adoptive parents are thieves, little more!”*.

One can only imagine, then, the feelings of a birth parent who has experienced a great sense of loss compounded by anger and a sense of injustice about how that loss came to be when faced by a contact veto placed by that lost child.

They spoke of the *“devastation”*, the *“opening up of old pain”*, the *“destruction of our lives”*, of *“heartache”*. One mother, for example, who had been searching for her child for years before the new Act, said she always held a week of her annual leave aside each year in case she was able to locate and contact her daughter. The Act finally enabled her to find her daughter - only to learn she had placed a contact veto. Her bitter words were *“The adoptive parents have benefited from my loss”*.

In a few cases; birth mothers expressed dismay that their child had not been placed with the kind of family they anticipated *"If I had kept her I could have given her as much. She lived in a house with no garden, no roses"*. Or as the birth grandmother said of her grandson's adoption *"The deal hasn't been kept"*.

Often anger was expressed towards the adopting parents and it was generally felt that they were influential in the placement of the veto by the child. As one birth mother saw it *"There's been a shift in power. Once we were the ones stripped of rights and now they (the adoptive-parents) are disempowered because the birth parents now have some rights"*. The angry tone of messages left by some children in association with their vetoes makes it clear to their birth mothers that their child believes their birth mother rejected them. The experience of some adoptees of having their adoptive parents tell them their birth mothers hadn't wanted them indicates this message is given to some adoptees. This contrasts so sharply with the truth as the birth mothers know it that they feel an even greater need to contact their child and explain that they were wanted.

Some birth mothers facing a contact veto, and feeling that their children may have been pressured to place a veto or did so out of a misunderstanding of the circumstances of the adoption argued for stronger measures around the veto. This includes making it compulsory that a person leave a reason for applying a veto, that he or she be made see the other person through a one-way glass when a veto is received, or making it mandatory that the adoptee have at least one face-to-face contact with the birth parent, under supervision.

No birth parents who had applied a contact veto participated in the research.

4.5.4 Honouring of Contact Vetoes

As discussed earlier adoptees (and their parents) who have placed contact vetoes have little faith that the \$2,500 fine and/or six months in gaol is a sufficient penalty to deter people from breaking the veto. One related an incident said to have happened to a friend who is a relinquishing mother who had placed a veto. Married to a *"strict, bigoted born-again Christian"* who knows nothing about the adopted child, her friend is reported to have received a phone call from a (well-meaning) person asking if she wanted to meet her son. She is now living in a highly anxious state, leaving work early to intercept any mail and phone calls. She is now sick with fear as she feels that disclosure would mean the end of the marriage. A number of adoptees or their parents were angry, about the fact that a contact veto was not permanent - that they remain in force ~,only until the year 2000.

In contrast, all of the adoptees and birth parents who participated in the research and have been subject to a contact veto indicated that they had no intention of violating the veto. This was not due to any penalties applying but rather because they felt that the only value of contact was when the other party wanted contact to be made. Most of them were certainly hoping that the person placing the contact veto would, over time, lift the veto. In this regard

quite a few people discussed their experience with, or need for, a system whereby the person lodging the contact veto could be re-contacted to determine whether he or she might reassess the veto. While many were aware that this could be done, through FIS, the level of understanding of how this could be done was generally low. They were unsure how often this could be done, under what conditions, how much discretion FIS had etc.

Only one person, a "relinquishing grandmother" indicated any willingness to consider breaking the veto. She believes that she might do this if her own parents were in any danger of dying before meeting their great grandchild or if her daughter continued to be distraught over the child. This grandmother believed that she was under no obligation - having signed no agreement - not to contact her grandson, who is currently under the age of 18. (With minors there is a total prohibition on contact with an adoptee without agreement of the adoptive parents.) The research suggests that it is probably more likely to be an interested - but less central - party to an adoption that, if anyone, is likely to break a veto. The adoptees and relinquishing parents who were talked to, considered a forced contact destructive of the very relationship they were seeking. Also, without exception those people subject to a veto supported the need for a veto provision. There was agreement that all parties deserved the right - however misguided - to protect themselves from contact. (The same scrupulousness was not as generally apparent in relation to accessing information about a person being tracked. A number of people made reference to gaining information illegally eg *"I happened to be working in the right place at the right time - knowing people in other places also helped, such as information in police computers"*.)

The whole issue of vetoes is so important and touches on such emotional areas that it is critical that people be as well informed as possible. Some respondents felt that the Guide to Searching Adoption produced by the Department of Community Services needed to include more information on vetoes. The fact that some people affected by a contact veto appeared to go into a state of shock upon learning of the veto means that any information given to them at that time - particularly if given verbally - is often not retained. As well as factual information, as much help as possible is needed to assist people in their emotional adjustment. (PARC has produced a two-page document directed at birth parents explaining a contact veto in an attempt to meet this need - wider distribution of this and similar documents would be valuable.)

4.5.5 Reunions

Some of the participants in the research had already been reunited with birth family members. The resulting experience of those involved in reunions was quite variable. If any generalisation is possible it probably is that reunion between sibling and half-siblings tend to be more consistently *"successful"*, than reunion between a parent and child possibly because the former are less emotionally demanding ones. Also the fact that siblings are of the same generation makes it somewhat more likely that there will be common interests, life situations etc.

Contact between birth parents and birth children generally involves a great number of highly emotional issues - as would be expected. Not only does the relationship between two people have to be developed, but also relationships with other, significant people of the two individuals. Their spouses, other children, adoptive parents etc must also come to terms with the reunion. For example, one adoptee says she has a “*fabulous*” relationship with her natural mother and is getting along well with her mother’s husband. He hadn’t known about the adoption and “*it took him a while to accept me*”.

Another birth mother described the reunion with her son, saying they got on very well initially. Plans were made for her to meet the adoptive parents and then there was a cooling off period. She says “*I’m not sure what is next - maybe the parents got cold feet. But I’ll wait to hear from him again - even if I never see him again I’m pleased to have met him at least the one time*”.

Even where people are not legally prohibited from contacting a party they tend to exercise great discretion in doing so. For example one adoptee (who accidentally learned of her own adoption as a teenager) has since met and established a “*fantastic*” relationship with her birth mother. The adoptee’s concern now is to be reunited with her half brother who is 37. She knows where he is but is waiting in the hope that his adoptive father **will** tell him he is adopted before contacting him. If the father does not eventually tell him, she is prepared to make contact.

Some of the respondents do confess to seeking to sight or to gain informal information on a birth relative who has placed a contact veto.

One birth mother described going to the street where her daughter lived at the instigation of a friend. While viewing a house for sale in the street she is sure she sighted her daughter but did not approach. She was so shaken by the experience and felt so guilty about feeling she had violated the spirit of the contact veto that the experience was quite negative.

People appear to have varying understandings of what constitutes “*no contact*”. The woman described above saw going into the same street as her daughter as possibly breaking the veto whereas an ex-member of Link-Up stated “*It’s OK to meet and get to know someone who has put on a contact veto - the only thing you can’t do is tell them that you are the person they are related to*”.

Another relinquishing mother, who has had a contact veto placed on her and has since set up a support group for birth mothers, says of reunions “*Oh, everything is comfortable in the beginning. Then the child starts calling her birth mother ‘mum’ and the adoptive parents become threatened*”. In short, after what may have been a search of many years with a single goal of reunion, many people find that achieving the goal doesn’t mean the process is complete. An extended period of adjustment is often needed even with “*successful*” reunions and not all of them are successful.

In some cases the reunion has led to quite serious problems. One middle-aged woman participating in the research had

a complex story. She herself was adopted out at the age of three and her siblings were separately adopted out. As a young woman she herself adopted out a child. She described the situation “*Suddenly out of the blue I got a phone call from this sister I didn’t even know I had. She had all the information on me - even had the adoption orders for the kids. My own family (she was then married with children) didn’t know anything about my prior history but I had to tell them once my sister showed up. My sister has paid people for information - the law’s OK - it’s the manipulation by persistent and clever people that is wrong*”. Not only did the sister stumble into the family but the daughter who had been adopted out also did. The daughter is on drugs and has been very disruptive - calling at all hours to be helped and rescued from situations. As the respondent says “*I’ve got the worst of all worlds - my daughter and sister are harassing me and I can’t get anywhere about trying to find my mother which I need to do for medical reasons*”. This woman and a number of other respondents (including adoptive parents) called for a more realistic portrayal of what reunion can be like. Even those who have experienced a relatively successful reunion share this view, in that a fantasy picture of what a reunion will be like sets people up for disappointment and failure if they fall short.

4.6 Summary of Qualitative Research” The impact of the Act.

Clearly, all aspects of adoption have very strong emotional impacts on parties involved, so that the Act touches on the most deep-felt and basic of human feelings. Few adoptees face the knowledge that they are adopted without some emotional cost. It would appear, however, that the earlier a child is told of his or her adoptive status the better the adjustment. Many adoptees who had not been informed indicated that they picked up many clues throughout their childhood which said they were different. Although the Act has forced the hand of adoptive parents to disclose that their child was adopted there is evidence that “*secrets*” are always vulnerable to disclosure though accidental, well-meaning or malicious acts. The Act has not changed that.

It seems that the later in life that a child learns of his or her adoption the more traumatic it is; similarly if he or she learns from a source other than the parents. Birth parents who have kept an adoption secret from their current family also face anxiety about disclosure, but at least they are in a position to apply a contact veto if they choose.

For some adoptees, the motivation to seek their birth families springs from an unhappy family situation, but as many adoptees from happy family situations also express a need to know. The metaphor of a jigsaw is very apt - many felt that information gave them back pieces of themselves. The search for information was almost always very emotionally charged and draining because it was so central to the adoptees’ sense of self and because it had implications for the closest of their family relationships. Similarly with birth parents, the search often reopened the pain and loss experienced at the time of adoption.

Generally, people searching for a birth family member

found the services of the government and non-government bodies to be useful and supportive although occasional complaints of “cold bureaucracy” or a lack of timely responses etc were made.

There were numerous factors that seemed to influence people’s desire or reluctance to seek information - gender, losses, the acceptance of the adoption circumstances, current relationships etc. The latter was one of the most critical, as often adoptees and birth parents felt that a search potentially endangered relationships with their current families. This was most strongly felt in regard to adoptees and their adoptive parents. A notion of a “closed” or “open” family system - where the boundaries between a family and the rest of the community are more rigid or more diffuse - is useful in understanding various adopting families’ responses to the Adoption Information Act. “Closed” families naturally feel extremely threatened and anxious when they have thrust upon them the requirement to be accessible to the birth families. They quite rightly state that they adopted when the ethos and rules about adoption were consistent with their needs.

Equally painful is the experience of having a search end in a contact veto. For adoptees it may mean the loss of opportunity to gain information as well as contact with their birth families. For a birth parent it means the loss of contact as well as the chance to redress the notion that their child was unwanted. Almost everyone experiencing a contact veto, however, supported the need for a veto. They did not intend to violate the veto - not because of any penalties applying - but because they knew it was necessary for the other party to want contact with them. People were generally hopeful that a contact veto would be lifted in time so that the ability of a mediator to have the veto applicant review the situation is critical.

When reunions took place, the process of adjustment was still not over. People may experience joy and they may experience regret and pain after a reunion. The limits placed on siblings having access to identifying information was consistently a source of frustration and outrage. There is some indication that reunions between siblings are the easiest to accommodate - possibly because the emotional associations of the relationship are not as heightened.

The diversity of people’s needs and situations, their values and roles in relation to adoption clearly makes it impossible to satisfactorily meet and resolve these conflicts of interest. To a great degree, though, these conflicts are being carried by a generation or two of people born into one social view of adoption, only to live to see another notion of adoption prevail. Hopefully today adoptees, adopting families and birth families will avoid the worst of the pain.

Source: ‘New South Wales Law Commission Report 69. Review of the Adoption Information Act 1990. Date Report July 1992. ISBN 0-7305-9923X.

Acknowledgement of Sources and References

- Campbell, Ian Drummond, *The Law of Adoption in New Zealand* 1st Edition 1952 Butterworths 2nd Edition 1957
- DSW. ‘Adoptions Local Placements Manual’ for social workers Adoption Information and Services Unit (AISU)
- Else, Anne, *A Question of Adoption: Closed Stranger Adoption in New Zealand 1944-1974* 1991 Bridget Williams Books 1991
- Field, Jeff, ‘Psychological Adjustment of Relinquishing Mothers Before and After Reunion with their Children’ *Australian and New Zealand Journal of Psychiatry* 1992; 26: pp.232-241
- Griffith, Keith C., *Adoption Court Records- Adoption Act 1955 sec23: Construction Cases Practice* Published KCG 1982
- The Right to Know Who You Are: Reform of Adoption Law with Openness Honesty and Integrity* Published by K.Kimbell 2836 Grandeur Avenue Ottawa.Ontario K2B 6Y9 Canada 1992
- ‘New Zealand Adoption- History and Practice- Social and Legal 1840-1996.’ Pub 1997. 750 pages
- Iwanek, Mary C., ‘The Adult Adoption Information Act 1985: From Private Members’ Bill to Public Policy and Practice’ Thesis (Master of Public Policy) 1991 Victoria University Wellington
- Kennard, Jill, ‘Adoption Information: The Repossession of Identity’ Thesis MA Applied in Social Work.Victoria University of Wellington. 1991. 177 pages.
- Kenworthy, Meran Anna. ‘Reunion Aftermath: Views of Birthmothers and Relinquished Sons and Daughters’. Thesis (MA Education) Auckland University. 1992 Ref No.92/176 104 pages.
- Ludbrook, Robert., *Adoption- Guide to Law and Practice* 1990 CPBooks. Trapski’s Family Law Vol 5 Adoption 1995. Brooker’s
- New South Wales. Law Reform Commission** Sydney 994 *Review of the Adoption of Children Act 1965*ISSN 0818-7924 A detailed 345 page Report.
- Preston, Eileen, ‘Adult Adoption Information Act 1985: An Analysis of 2000 Applicants from Birth Parents under Sec.8’ Paper Adoption Conference Victoria University May 1990 DSW Lower Hutt
- Rockel, Jenny, and Ryburn, Murray, *Adoption Today Change and Choice in New Zealand* 1988 Heinemann Reed Auckland