

42 | **A Birthmother's Perspective:**

Without the Confidential Option, I Would Never Have Made My Open Adoption Plan

By Courtney Lewis[†]

As a birthmother, I have a growing concern over the efforts made by a vocal minority attempting to influence lawmakers to introduce and pass legislation that would meet their needs while violating rights of others. The opening of birth, adoption, and/or medical records pertaining to adoptions that have historically remained sealed removes confidentiality from adoption and has the potential to eliminate adoption as a viable choice for many young women facing unplanned pregnancy.

Future consequences in removing confidentiality from adoption, at the point in which the mother makes an options decision on her unplanned pregnancy, is likely to result in one of two scenarios. If confidentiality is most important to the mother, she will terminate her pregnancy. If she is too far along in her pregnancy to terminate, her decision is often to move forward with parenthood, albeit unwanted parenthood, when she believes that perhaps another family could have better provided for her child. Only those who can come to terms with full disclosure in adoption—and no option for privacy—will choose to move forward with an open adoption.

When I was considering adoption, I was absolutely guaranteed confidentiality by the

adoption attorneys counseling me. They clearly extended me the option to either maintain my confidentiality by way of closed adoption or waive my confidentiality by way of open adoption. I was told *I had a decision*. I trusted the counsel of those who helped to facilitate my adoption. Call it naïvete, but at seventeen years of age I was making one of the first and most important decisions of my life, one that would directly affect my child as well. I believed what was told me by an authoritative body, by those more knowledgeable in the law. No one counseled me that, years down the line, this guarantee of confidentiality could be reversed with no warning. How was I to know that? Had I known about the potential instability of adoption law and practice, and the possibility of the violation of my rights as a birthmother, it definitely would have altered my perception of adoption as a choice, as well as my resulting decision.

Upon confirmation of a positive pregnancy test, a nurse at a local clinic presented three options to me, handing me pamphlets on each: abortion, adoption, and parenting. I first considered abortion. It was appealing in that it would be a decision between me and my doctor, and no one else would be involved. Preservation of self is instinctive; it is hard not to want to protect your future plans and current lifestyle. Secondly, I considered parenthood. I couldn't get away from the difficulties that would ensue and the resources I didn't have. I wanted a better life for my child, one I could not provide as his parent. As a last resort, I considered adoption. I really didn't have a great understanding of what this meant, what my rights were, what would be expected of me.

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Reading through the pamphlet on adoption, it became clear that I could have the same privacy offered to those who choose to abort without the challenges of single parenthood—confidential adoption was the middle ground. At that point in my discernment process, adoption became a viable option. Although I ultimately chose to place my child in an open adoption, it was *only* the possibility of confidentiality in adoption that opened my mind to this third option. *Confidentiality was my gateway from abortion to adoption.* I guarantee that I would have given *no consideration to adoption* if confidentiality was not one option extended to me.

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The truth for all women is that the discovery of an unplanned pregnancy is, at the very least, upsetting and, at the most, emotionally taxing and disruptive to the mother's plans for her life. In this mindset, abortion becomes too attractive an option, without the offset of confidential adoption posing as an equal opportunity solution.

If mandatory open records laws are passed, what measures will be taken to protect birthmother rights? What measures will be taken to ensure that an adopted person who is desperate for reunion does not use the identifying information on the birth certificate and the contact preference form to conduct a search and attempt contact? What repercussions will follow if contact is attempted without the birthmother's knowledge or consent? Women who *need* to maintain their confidentiality might find themselves suddenly forced to make explanations to their parents or their former boyfriends, not all

of whom will be understanding or accepting. Life-changing events can ensue at the disruption caused by this breach of confidentiality.

I love my son, and as his mother, *I made a decision.* Before I placed him for adoption, I was my son's mother, his only parent, for a brief time. In the best interest of my child, I made an informed decision on his behalf. I weighed heavily the decision to maintain confidentiality in the adoption, post-placement, or to remain involved in his life. I should not have to plead with any state to honor and uphold my decision, a mother's decision for her child. Reversing confidential agreements in adoption made in good faith forces upon the birthmother a relationship she has terminated. Why at 18 or 32 or 55 does that child suddenly get to reverse the parental decision, resulting in a *forced relationship*?

I chose to place in an open adoption. I speak to my son and visit him and his family. But there are many women in my circle, other birthmothers, who chose to keep this intensely emotional, intimate decision a *private* matter. It is these women we need to protect. They do not have voices. They cannot speak for themselves because that would negate the privacy they wish to protect. We don't always have to understand their reasons why; we must honor their informed, legal decision.

All parties in adoption can benefit from the use of a mutual consent registry, which is currently offered in many states. Through this registry, not only will birthmothers be protected, adult adopted people and adoptive families will be protected. A mutual consent registry is the only fair way to encourage and ensure happy, fulfilling reunions based upon the mutual agreement of all parties.

Adoption practice is changing, and laws need to change with them. However, *each* of the three parties to adoption must be protected and served. We must listen to the perspectives of birthparents as well as those of adopted people and their families, and move to protect their rights as well as adoption.